
TIGARD CITY COUNCIL
MEETING

October 29, 2002 6:30 p.m.

TIGARD CITY HALL
13125 SW HALL BLVD
TIGARD, OR 97223



PUBLIC NOTICE:

Anyone wishing to speak on an agenda item should sign on the appropriate sign-up sheet(s). If no sheet is available, ask to be recognized by the Mayor at the beginning of that agenda item. Visitor's Agenda items are asked to be two minutes or less. Longer matters can be set for a future Agenda by contacting either the Mayor or the City Manager.

Times noted are estimated; it is recommended that persons interested in testifying be present by 7:15 p.m. to sign in on the testimony sign-in sheet. Business agenda items can be heard in any order after 7:30 p.m.

Assistive Listening Devices are available for persons with impaired hearing and should be scheduled for Council meetings by noon on the Monday prior to the Council meeting. Please call 503-639-4171, Ext. 309 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

Upon request, the City will also endeavor to arrange for the following services:

- Qualified sign language interpreters for persons with speech or hearing impairments; and
- Qualified bilingual interpreters.

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the City of your need by 5:00 p.m. on the Thursday preceding the meeting by calling: 503-639-4171, x309 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

SEE ATTACHED AGENDA

A G E N D A
TIGARD CITY COUNCIL MEETING
October 29, 2002

6:30 PM

- STUDY SESSION

- > UPDATE ON NEW LIBRARY PARTNERING

- EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(3), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

7:30 PM

- 1. BUSINESS MEETING

- 1.1 Call to Order - City Council & Local Contract Review Board
 - 1.2 Roll Call
 - 1.3 Pledge of Allegiance
 - 1.4 Council Communications & Liaison Reports
 - 1.5 Call to Council and Staff for Non-Agenda Items

- 2. VISITOR'S AGENDA (Two Minutes or Less, Please)

- 3. CONSENT AGENDA: These items are considered to be routine and may be enacted in one motion without separate discussion. Anyone may request that an item be removed by motion for discussion and separate action. Motion to:

- 3.1 Approve Council Minutes for October 8, 2002

- 3.2 Adopt a Resolution Authorizing the City Manager to Sign a Deed
Dedicating Additional Right-of-Way at SW Gaarde Street – Resolution No.
02 - _____

- 3.3 Local Contract Review Board:
- a. Award Annual Contract for Plumbing and Rooter Services to Metro Rooter and Plumbing
 - Consent Agenda - Items Removed for Separate Discussion: Any items requested to be removed from the Consent Agenda for separate discussion will be considered immediately after the Council has voted on those items which do not need discussion.
4. UPDATE ON THE STREET MAINTENANCE FEE PUBLIC PROCESS
- a. Staff Report: Engineering Staff
 - b. Council Discussion
5. CONSIDER A RESOLUTION AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT WITH WASHINGTON COUNTY REGARDING THE TIGARD STATION AREA DESIGN AND COORDINATION OF COMMUTER RAIL
- a. Staff Report: Community Development Staff
 - b. Council Discussion
 - c. Council Consideration: Resolution No. 02 - _____
6. CONSIDER APPROVING AN AGREEMENT WITH OREGON DEPARTMENT OF TRANSPORTATION (ODOT) TO PROVIDE THE FUNDING FOR THE DESIGN AND RIGHTS-OF-WAY ACQUISITION FOR THE GREENBURG ROAD PROJECT
- a. Staff Report: Engineering Staff
 - b. Council Discussion
 - c. Council Consideration: Motion to approve the Greenburg Road Project Agreement with ODOT and authorize the City Manager to sign the agreement
7. CONSIDER HOUSING SET-ASIDE GUIDELINES
- a. Staff Report: Community Development Staff
 - b. Council Discussion
 - c. Council Consideration: Resolution No. 02-_____

8. COUNCIL LIAISON REPORTS

9. NON AGENDA ITEMS

10. EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(3), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

11. ADJOURNMENT

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COUNCIL MINUTES
TIGARD CITY COUNCIL MEETING
October 8, 2002

Mayor Griffith called the meeting to order at 6:30 p.m.

Council Present: Mayor Griffith, Councilors Dirksen, Moore, and Scheckla

- STUDY SESSION

- Measure 7 Ruling – Mayor Griffith asked about what the next step might be now that Measure 7 has been declared unconstitutional by the Oregon Supreme Court. After discussion, consensus was to check with the League of Oregon Cities (LOC) about their legislative agenda. More information should be available at the LOC conference in November.
- December Meeting Schedule – After discussion it was determined that the December 24 regular Council meeting will be cancelled. The December 17 meeting, which is the designated workshop meeting for December, will also have some business items on the agenda. Staff will arrange to telecast the meeting and if a live airing cannot be accommodated, a tape for delayed airing will be arranged. The December 17 agenda will include the latest information about the status of the street maintenance fee and a follow-up report from the Transportation Financing and Strategies Task Force. Mayor noted Mr. McAdams' interest in this topic and requested that Mr. McAdams be notified of Task Force Meetings that include the street maintenance fee on the agenda.
- Board and Committee Interviews – Participation or Presence of Chair – After discussion on whether the chair of a board or committee should be present or participate in the interview process for board/committee applicants, Council consensus was to keep the process as is: The chair may submit questions that may be asked by the Mayor or the Councilor conducting the interviews. The staff liaison to the board or committee will continue to be present to serve as a resource to the Mayor or Councilor if they have questions.

There was discussion on the regulations limiting membership on the Planning Commission to only two members of any one profession. Different situations such as practicing/not practicing attorneys or engineers from different disciplines were discussed. Consensus of council was to decide the eligibility of a potential Commission member on a case-by-case basis.

- Paid Parking at Football Games – Councilor Scheckla advised that in the past few days he has received a number of telephone calls from people complaining about being charged for parking during high school football games. These paid parking spots are located along 92nd Avenue, adjacent to the high school. Chief Ron Goodpaster advised he had been contacted by Dave Nicoli who belongs to the citizen group that organized the installation of the artificial turf on the football field. Mr. Nicoli indicated this group wanted to charge for parking and the Chief had advised he had some concerns about doing this. Mr. Goodpaster said he had been told by the Engineering Department that these parking spaces are on school property. The Chief advised he would contact School District officials to note the City's concerns about charging for these parking spaces.

- DEMONSTRATIONS:

1. Tasers

Chief Goodpaster introduced Sgt. Jim deSully who demonstrated the effectiveness of the taser on a target. The taser is used as a tool to immobilize, in a non-lethal manner, persons who are a threat to citizens or officers.

2. Automated External Defibrillation Devices (AED)

Chief Goodpaster introduced Mr. John Petterson of Medtronic who demonstrated how to use an AED. AEDs are used for life-saving early defibrillation to improve the odds of citizens struck down by sudden cardiac arrest. Later in the agenda, Council conducted a public hearing on whether to accept a 2002 local law enforcement grant. A portion of the proceeds from this grant are for the purchase of five defibrillators for use at city facilities and in the field.

- EXECUTIVE SESSION: Not held.

1. BUSINESS MEETING

- 1.1 Mayor Griffith called City Council & Local Contract Review Board to order at 7:35 p.m.
- 1.2 Roll Call: Mayor Griffith and Councilors Dirksen, Moore, and Scheckla were present.
- 1.3 Pledge of Allegiance
- 1.4 Council Communications & Liaison Reports: None.
- 1.5 Call to Council and Staff for Non-Agenda Items: None.

2. PROCLAIM OCTOBER TO BE FILIPINO-AMERICAN HISTORY MONTH

- Mayor Griffith advised that the Filipino-American National Historical Society is observing the 415th anniversary of the first Filipino presence in the Continental United States. This proclamation seeks to recognize this monumental anniversary and the positive contributions Filipino-Americans have made to their respective communities. Council concurred that the City of Tigard should declare October 2002 as Filipino-American History Month.

3. VISITOR'S AGENDA

- Tigard High School Student Envoy Paul Brems advised Council of activities at Tigard High School. A copy of the highlights for October were distributed to the City Council and is on file in the City Recorder's office.

4. CONSENT AGENDA: Motion by Councilor Moore, seconded by Councilor Scheckla to approve the Consent Agenda as follows:

4.1 Approve Council Minutes for September 17 and 24, 2002

4.2 Receive and File:

- a. Council Calendar
- b. Tentative Agenda

4.3 Local Contract Review Board: Award Professional Services Contract for Labor Attorney Services to Bullard, Smith, Jernstedt and Wilson and Authorize the City Manager to Sign the Contract

The motion was approved by a unanimous vote of Council present:

Mayor Griffith	-	Yes
Councilor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Scheckla	-	Yes

5. UPDATE ON THE NEW LIBRARY

Library Director Margaret Barnes updated the Council about the new library. Her remarks are highlighted in a PowerPoint presentation, which is on file in the City Recorder's office. A community meeting is scheduled on Wednesday, October 16, 7 p.m., in the Tigard Town Hall. This will be an opportunity for citizens to meet the architects and share ideas about interior design features.

In response to a question from Mayor Griffith, City Manager Monahan advised Council on the status of the two homes on the library-site property. The southern-most home on the property will be removed. Staff is still exploring the potential uses for the small white house.

6. UPDATE ON WASHINGTON COUNTY COOPERATIVE LIBRARY SERVICE LOCAL OPTION LEVY

Library Director Margaret Barnes provided Council with information on the proposed countywide local option library levy that will be on the November ballot. A copy of her PowerPoint Presentation is on file with the City Recorder. The Tigard Public Library, along with public libraries throughout Washington County are experiencing significant increases in use. The five-year levy has a fixed rate of \$.26 per \$1000 of assessed value. If approved, owners of a home assessed at \$158,000 would pay \$41 in additional property taxes. The Tigard library receives about 60 percent of its operating dollars from these county funds.

Councilor Moore commented on the importance of the proposed levy for operation of the Tigard library where it is presently located and to fund operations at the new facility.

7. PUBLIC HEARING – 2002 LOCAL LAW ENFORCEMENT BLOCK GRANT

- a. Mayor Griffith opened the public hearing.
- b. Police Chief Ron Goodpaster presented the staff report, which is on file in the City Recorder's office. This is a Department of Justice Law Enforcement Grant for \$24,361, which requires a 10 percent match of \$2,707. The Chief reviewed the process, which includes a review by a citizens advisory committee, for selecting how the funds from the grant will be spent. Projects for this grant include: purchase of five automated external defibrillators, a high school driver training program, computer software for use in the Oregon Law Enforcement Data System, recognition programs for students at Tigard middle schools, funds for the Community Partners for Affordable Housing after-school program, and a laptop computer for the Municipal Court.
- c. Public Testimony: None.
- d. Staff recommended that the Council accept the grant and authorize the expenditure of funds.
- e. Mayor Griffith closed the public hearing.

- f. Motion by Councilor Moore, seconded by Councilor Dirksen, to accept the grant and authorize expenditure of grant funds for the proposed uses as listed by staff in the Council Agenda Item Summary.

8. COUNCIL LIAISON REPORTS: None.

9. NON AGENDA ITEMS

10. EXECUTIVE SESSION: None.

11. ADJOURNMENT: 8:10 p.m.

Attest:

Catherine Wheatley, City Recorder

Mayor, City of Tigard

Date: _____

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AGENDA ITEM # _____
FOR AGENDA OF October 29, 2002

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Right-of-way dedication along SW Gaarde Street.

PREPARED BY: G. Berry DEPT HEAD OK _____ CITY MGR OK _____

ISSUE BEFORE THE COUNCIL

Shall City Council dedicate additional right-of-way along SW Gaarde Street?

STAFF RECOMMENDATION

That City Council approve the attached resolution authorizing the City Manager to sign the Dedication Deed.

INFORMATION SUMMARY

On March 12, 2002, City Council approved the dedication of a 1.26-acre northerly extension of the Gaarde Street right-of-way to SW Walnut Street to accommodate proposed improvements. Since then, this portion of Gaarde Street has been fully improved to collector street standards. The current Tigard Transportation System Plan (TSP) was adopted by City Council on January 8, 2002 and became effective on February 7, 2002. The TSP now classifies this portion of Gaarde Street as an arterial street requiring an additional twenty feet of right-of-way width. This proposed right-of-way dedication would provide the additionally required right-of-way although there are no current plans to improve the street to arterial standards. The right-of-way extends through two City-owned parcels.

To ensure compliance with the Comprehensive Plan prohibition of driveways on arterial streets, there will be a non-access easement along the eastern edge of the proposed right-of-way, which will be recorded with the City-owned remainder parcels.

OTHER ALTERNATIVES CONSIDERED

Not applicable

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Not applicable

ATTACHMENT LIST

Attachment "1": Proposed Resolution
Exhibit "1": Dedication deed with Exhibit "A" and map,

FISCAL NOTES

Not applicable

Attachment 1

CITY OF TIGARD, OREGON

RESOLUTION NO. 02-_____

A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN ON BEHALF OF THE CITY A DEDICATION DEED DEDICATING ADDITIONAL RIGHT-OF-WAY AT SW GAARDE STREET.

WHEREAS, the City of Tigard has purchased land required for street improvements and those improvements have been completed;

WHEREAS, the City desires to convey the land to the public for street purposes;

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The Tigard City Council hereby authorizes the City Manager to sign a dedication deed dedicating the property to the public for street purposes. Copies of the dedication deed are attached hereto as Exhibit "1"; and incorporated herein by this reference.

PASSED: This _____ day of _____, 2002.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

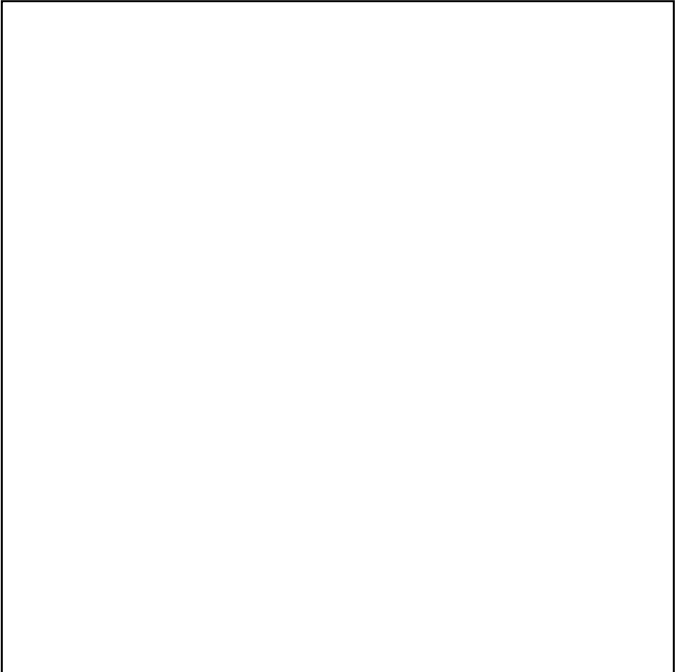
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RETURN RECORDED DOCUMENT TO:
CITY HALL RECORDS DEPARTMENT,
CITY OF TIGARD
13125 SW Hall Blvd.
Tigard, OR 97223

EXHIBIT “1”

File No. 0323B

DEDICATION DEED
FOR ROAD OR STREET PURPOSES



Space above reserved for Washington County Recording information

The City of Tigard does hereby dedicate to the public a perpetual right-of-way for street, road, and utility purposes on, over, across, under, along, and within the following described real properties in Washington County, Oregon:

Attached Exhibit “A”

To have and to hold the above-described and dedicated rights unto the public forever for uses and purposes hereinabove stated.

IN WITNESS WHEREOF, I hereunto set my hand on this _____ day of _____, 20_____.

City of Tigard
Name of Corporation
13125 SW Hall Blvd.
Address
Tigard OR 97223

William A. Monahan, City Manager

STATE OF OREGON)
) ss.
County of Washington)

This instrument was acknowledged before me on _____(date) by _____
_____(name(s) of person (s)) as
_____(type of authority, e.g., officer, trustee, etc.)
of _____(name of party on behalf of whom instrument was executed).

Notary's Signature
My Commission Expires: _____

Accepted on behalf of the City of Tigard this _____day of _____, 20_____.

City Engineer

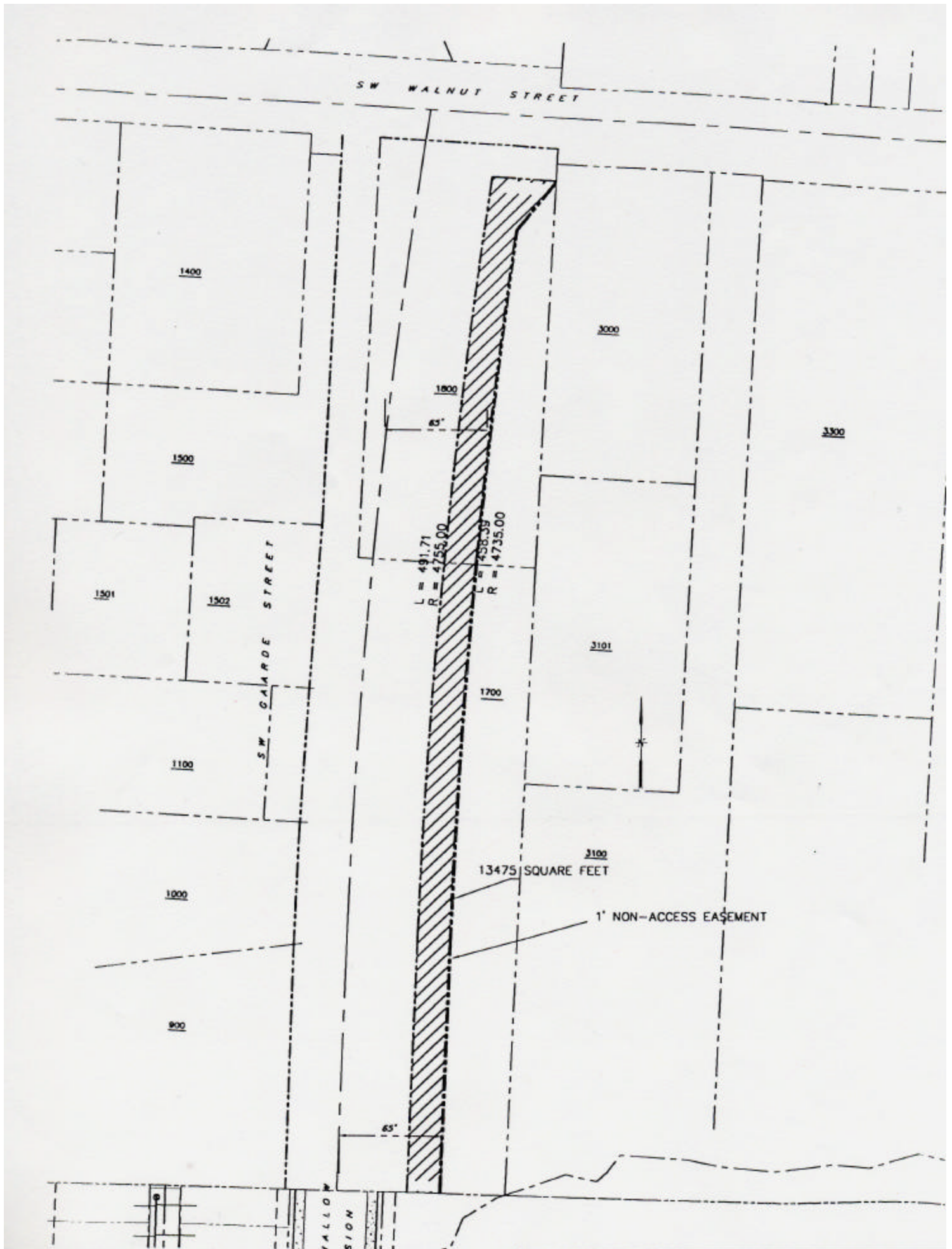
EXHIBIT "A"

LEGAL DESCRIPTION
FOR
RIGHT-OF-WAY DEDICATION

A TRACT OF LAND LOCATED IN THE NE ONE-QUARTER OF SECTION 4, TOWNSHIP 2 SOUTH, RANGE 1 WEST, WILLAMETTE MERIDIAN, CITY OF TIGARD, WASHINGTON COUNTY, OREGON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE TRACT OF LAND DESCRIBED IN DOCUMENT NUMBER 94062914 OF THE WASHINGTON COUNTY DEED RECORDS, ALSO BEING THE NORTHEAST CORNER OF LOT 125 QUAIL HOLLOW WEST AS RECORDED IN BOOK 130 PAGE 42-48 OF THE WASHINGTON COUNTY SUBDIVISION RECORDS; THENCE N 02° 20' 12" E ALONG THE WEST LINE OF SAID FEE NUMBER, A DISTANCE OF 679.60 FEET TO THE SOUTHERLY RIGHT-OF-WAY OF SW WALNUT STREET, 20.00 FEET FROM CENTER LINE WHEN MEASURED AT RIGHT ANGLES; THENCE S 87° 00' 43" E, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 137.13 FEET TO THE EASTERLY LINE OF THE PROPERTY DESCRIBED IN DOCUMENT NUMBER 93025221 OF THE WASHINGTON COUNTY DEED RECORDS; THENCE S 02° 21' 17" W, ALONG SAID EASTERLY LINE, A DISTANCE OF 21.00 FEET TO A POINT WHICH IS 41.00 FEET FROM THE CENTER LINE OF SW WALNUT STREET, WHEN MEASURED AT RIGHT ANGLES AND **THE TRUE POINT OF BEGINNING**; THENCE N 87° 00' 43" W, PARALLEL WITH AND 41.00 FEET FROM SAID CENTER LINE, A DISTANCE OF 40.99 FEET TO A POINT ON A NON-TANGENT CURVE TO THE LEFT, BEING 45' EASTERLY WHEN MEASURED AT RIGHT ANGLES FROM THE CENTER LINE MONUMENTED IN SURVEY NUMBER 28529 OF THE WASHINGTON COUNTY SURVEY RECORDS; THENCE PARALLEL WITH AND 45 FEET FROM SAID CENTER LINE FOR THE FOLLOWING TWO COURSES; THENCE ALONG SAID CURVE TO THE LEFT WITH A RADIUS OF 4755.00 FEET, A DELTA OF 5° 55' 30" (A CHORD WHICH BEARS S 04° 55' 05" W, 491.50 FEET) AND A LENGTH OF 491.71 FEET TO A POINT OF TANGENCY; THENCE S 01° 57' 20" W A DISTANCE OF 165.12 FEET TO THE SOUTH LINE OF DOCUMENT NUMBER 94062914 AND THE NORTH LINE OF QUAIL HOLLOW WEST; THENCE S 88° 43' 41" E, ALONG SAID NORTH LINE A DISTANCE OF 20.00 FEET TO A POINT WHICH IS 65.00 FEET FROM SAID CENTER LINE; THENCE N 01° 57' 20" E, 65 FEET FROM SAID CENTER LINE WHEN MEASURED AT RIGHT-ANGLES, A DISTANCE OF 164.88 FEET TO A POINT OF CURVE OF A CURVE TO THE RIGHT; THENCE ALONG SAID CURVE TO THE RIGHT WITH A RADIUS OF 4735.00 FEET, A DELTA OF 5° 32' 48" (A CHORD WHICH BEARS N 04° 43' 44" E 458.21') AND A LENGTH OF 458.39 FEET; THENCE N 38° 41' 53" E 40.48 FEET TO THE POINT OF BEGINNING.

CONTAINING 13475 SQUARE FEET.



AGENDA ITEM # _____
FOR AGENDA OF October 29, 2002

CITY OF TIGARD, OREGON
LOCAL CONTRACT REVIEW BOARD AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Award Annual Contract for Plumbing and Rooter Services to Metro Rooter & Plumbing

PREPARED BY: Terry Muralt, Buyer DEPT HEAD OK _____ CITY MGR OK _____

ISSUE BEFORE THE LOCAL CONTRACT REVIEW BOARD

Award annual contract for plumbing and rooter services to Metro Rooter & Plumbing by “piggy-backing” off of the Washington County contract. The term of the contract would be for one-year with the option to renew for up to two additional one-year extensions.

STAFF RECOMMENDATION

That the Local Contract Review Board (LCRB), by motion approve award of the plumbing and rooting services contract with Metro Rooter & Plumbing and authorize the City Manager to sign the contract.

INFORMATION SUMMARY

Throughout the year the Public Works Department requires a licensed plumber to accomplish work that City employees would normally not do. Listed below are three examples of projects that the different divisions of Public Works (Water, Sanitary and Building Maintenance) would require a licensed plumber.

- Water Division: Re-connecting customer water services after we have moved existing service connection due to new development. Repairing customer water services damaged during capital improvement projects.
- Wastewater Division: Repairing a sanitary sewer line going from the main line to the customer’s home.
- Building Maintenance: Replace hot water heater and do plumbing after hours when staff is not available.

Currently Public Works Department staff obtains quotes for these services on an individual project basis. The estimated annual expenditures for these types of services are \$22,500, which would total \$67,500 over the life of a possible three-year contract. Washington County just completed a formal bid process and awarded a three-year contract to Metro Rooter & Plumbing on April 1, 2002. It is more cost-effective for the City to “piggy-back” off an existing contract because of the time it would take for the City to conduct an independent bid process as well as benefiting from the buying power that a larger agency has in obtaining a better price.

ORS 279.015(1)(g) Allows the City to utilize an existing contract from another agency that has been let by competitive bidding and has the cooperative language in the contract. The Washington County contract meets this rule.

OTHER ALTERNATIVES CONSIDERED

Obtain quotes for each individual project. This method is both costly and inefficient because there is no contract to hold the vendor to fixed pricing for a certain period of time and the extra time that it takes for staff to obtain quotes for each individual project. This method would also have the possibility of customer service lines being interrupted for longer duration

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

None

ATTACHMENT LIST

1. City contract with Metro Rooter & Plumbing
 - Exhibit A – Goods and Services to be provided
 - Exhibit B – Sellers Proposal (Washington County Contract)
 - Attachment A – Statement of Work
 - Exhibit C – City of Tigard's Standard Terms and Conditions

FISCAL NOTES

The funds for this are already budgeted and approved in each Division. There is no need for additional funding.

CITY OF TIGARD, OREGON PURCHASE AGREEMENT FOR

Plumbing and Rooting Services

THIS AGREEMENT made and entered into on October 23, 2002 by and between the City of Tigard, a municipal corporation of the State of Oregon, hereinafter called City, and Metro Rooter & Plumbing, hereinafter called Seller.

RECITALS

- a. Whereas, Seller has submitted a bid to Washington County for plumbing and rooting services and
- b. Whereas, City, as a public entity, has the authority to contract with Seller under the Cooperative Purchasing terms and conditions set forth in Washington County Trade Services Contract with Seller;
- c. Therefore, City and Seller wish to enter into a contract under which City shall purchase the goods and services described in Seller's original bid.

AGREEMENT: The parties agree:

1. GOODS AND SERVICES TO BE PROVIDED:

City shall purchase plumbing and rooting services from Seller in accordance with, and in precedent order:

- a. The terms and conditions set forth in this agreement;
- b. The original Seller's proposal, submitted to Washington County, attached hereto as Exhibit A and incorporated by this reference;
- c. The Washington County Trade Service Contract which incorporates the original ITB 21107B and specifications and any addenda attached hereto as Exhibit B and incorporated herein by this reference; and
- d. The City's Standard Terms and Conditions, attached hereto as Exhibit C and incorporated by this reference.

2. EFFECTIVE DATE AND DURATION:

This Agreement shall become effective upon the date of execution by the City's Local Contract Review Board and shall expire, unless otherwise terminated or extended, on June 30, 2003, whichever comes first. The City shall also retain the rights (2) one-year contract extensions upon award of the Agreement. The total term of the contract cannot exceed 3 years. All goods and services under this Agreement shall be delivered and completed prior to the expiration of this Agreement.

3. COMPENSATION:

- a. City hereby agrees to pay Seller the amounts detailed in the Seller's original bid for the goods and services, including shipping and handling. The total purchase price shall be considered payment for all Sellers' obligations described in this agreement. Seller shall invoice City the purchase price upon the delivery of the goods and services. City shall have thirty (30) days

after receipt of invoice in which to make payment. Seller shall be responsible for the payment of all taxes associated with the sale of the goods and services. City is exempt from the payment of Federal Excise Tax.

- b. The City's estimated annual expenditures for plumbing and roter services is \$22,500.
- c. Seller shall promptly advise City of all reasonably available technological advances that are known or become known to Seller while this agreement is in effect which may result in the goods having added value, capacity, or usefulness when used for City's purpose. If Seller intends to provide goods incorporating technological advances and still meeting the specifications and the City's needs at no additional charge, Seller shall provide City with 30 days' notice of the proposed change. The City may require that only goods not incorporating the changes be supplied by providing written notice to seller within 5 days of receiving the notice of the proposed change. Any other changes incorporating technological advances shall only be approved as an amendment to this agreement.
- d. The City certifies that sufficient funds are available and authorized for expenditure to finance costs of this contract.

4. DELIVERY:

Seller shall provide the services in accordance with the schedule set forth in the contract documents after receipt of City's order, together with an executed copy of this Agreement. Seller agrees to provide services as specified in Exhibit A.

City shall inspect the goods and services and notify Seller immediately of any problems.

No language contained in a purchase order, work order, or delivery order shall vary, amend, modify, or add terms or conditions to this Agreement under which the order is placed.

5. INSTALLATION:

Unless the Specifications (Exhibit A) or the proposal (Exhibit B) require installation by Seller, the City shall install the goods purchased under this agreement. If Seller is to install the goods, installation shall be completed per work order. Any installation by Seller shall be in accordance with the provision of this agreement, including all Exhibits.

6. TESTING AND ACCEPTANCE:

Seller shall test the goods prior to delivery. Seller's tests shall determine whether the goods meet Seller's specifications and are fit for the purpose intended. Acceptance or rejection of the goods purchased shall occur 10 days after delivery and inspection by Buyer. Failure to inspect and accept or reject goods shall neither relieve Seller from responsibility for such goods, which do not meet the requirements in this Agreement nor impose liability on Buyer.

7. RISK OF LOSS:

Risk of loss to goods in shipment (including damage, destruction, theft, or loss) shall be borne by the Seller. Risk of loss shall not pass to Buyer until the goods are delivered to and checked in at the location specified by Buyer.

8. ASSIGNMENT/DELEGATION:

Neither party shall assign or transfer any interest in or duty under this Agreement without the written consent of the other and any attempted assignment or transfer without the written consent of the other party shall be invalid.

9. SUBMITTING BILLS AND MAKING PAYMENTS.

All notices and bills shall be made in writing and may be given by personal delivery, mail or fax. Payments may be made by personal delivery, mail, or electronic transfer. The following addresses shall be used to transmit notices, bills, payments, and other information:

CITY OF TIGARD

Sam Morrison, Water

Eric Hand, Sewer/Storm Drain

Arnie Manzano, Bldg. Maintenance

13125 SW Hall Blvd.

Tigard, Oregon 97223

Business Phone: 503-639-4171

Business Fax: 503-684-8840

Email Address: sam@ci.tigard.or.us

SELLER

Metro Rooter & Plumbing

3333 NW 35th Ave Bldg. #C

PO Box 33585

Portland OR 97292

Business Phone: 503-652-2626

Business Fax:

Email Address:

10. TERMINATION

City has the right, in its sole discretion, to terminate without cause or for no cause, to termination this Agreement at any time by giving notice to Seller. If City terminates the contract pursuant to this section, it shall pay Seller for goods shipped by Seller prior to receipt by Seller of the notice of termination. City may deduct the amount of damages, if any, sustained by City due to any breach of contract or warranty by Seller. Damages for breach of contract or warranty shall be those allowed by Oregon law, reasonable and necessary attorney fees, witness fees (expert and non-expert), and other costs of litigation at trial and on appeal.

11. ACCESS TO RECORDS:

City shall have access to such books, documents, papers and records of Seller as are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcripts.

12. FORCE MAJEURE:

Neither City nor Seller shall be considered in default because of any delays in completion and responsibilities hereunder due to causes beyond the control and without fault or negligence on the part of the parties so disabled, including but not restricted to, natural disaster, war, civil unrest, volcano, earthquake, fire, flood, epidemic, quarantine restriction, area-wide strike, freight embargo, unusually severe weather or delay of subseller or supplies due to such cause; provided that the parties so disabled shall within ten (10) days from the beginning of such delay, notify the other party in writing of the cause of delay and its probable extent. Such notification shall not be the basis for a claim for additional compensation. Each party shall, however, make all reasonable efforts to remove

or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligation under the Agreement.

13. NON-DISCRIMINATION:

Seller agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Seller also shall comply with the Americans with Disabilities Act of 1990, ORS 659.425, and all regulations and administrative rules established pursuant to those laws.

14. WARRANTY AGAINST DEFECTS:

Seller warrants that the goods shall remain free of defects in material and workmanship for a period of one (1) year commencing the date of City's acceptance. Such defects shall include any failure of the goods to meet Seller's specifications or the description contained in Seller's product literature. If within the warranty period City discovers such a defect, Seller shall repair or replace the defective item or component free of charge. If after three attempts Seller is unable to eliminate a defect, or if Seller does not commence the warranty work within the time allowed in this paragraph, City shall have the right to return the defective item or component and, at City's option, either obtain a full refund of the purchase price of the goods or obtain a refund, in an amount to be agreed upon by the parties, of the portion of the purchase price of the goods that is allocable to the defective item or component. Seller shall commence all warranty work within 48 hours of receiving notice of the warranty claim. All warranty work shall be performed at City's facilities unless otherwise agreed by the parties. If warranty work is performed at Seller's facilities, Seller shall pay all shipping costs, including the cost of return shipment. This warranty shall apply to all repair parts furnished by Seller and all repairs performed by Seller.

15. INTELLECTUAL PROPERTY WARRANTY:

Seller warrants that none of the goods, the use thereof or any of the applications, processes or designs employed in the manufacture thereof infringes the valid claims of any letter patent, patent application, copyright, trade secret or any other property right of any third party. If as a result of any suit or proceeding alleging an infringement of any of the foregoing property rights City's use of the equipment is enjoined, Seller shall at no cost to City either obtain for City a license to use the goods or modify the goods so as to avoid the infringement without any degradation in performance. If Seller cannot obtain such a license and cannot so modify the equipment, Seller shall promptly refund to City the purchase price, less a reasonable amount for depreciation.

16. MAINTENANCE SERVICES:

Unless otherwise provided in the Specifications (Exhibit A) or the Proposal (Exhibit B), the City shall have the right to maintain the goods purchased under this Agreement. Repairs or replacement of parts by the City or its agents or maintenance contractors shall not alter or void any warranties for equipment or goods purchased under this contract.

If provided for in the Specifications (Exhibit A) or the Proposal (Exhibit B), Seller shall provide maintenance services for a one year period commencing on the date of delivery under the guidelines established in the Specifications (Exhibit A). All maintenance services shall be performed on City's premises, unless otherwise agreed by the parties. Seller shall provide

substitute equipment of equal quality and function for City's use if the maintenance services will exceed 1 day in duration. City may terminate Seller's maintenance services at any time without cause upon the delivery of written notice. In the event of such termination, Seller's other obligations under this Agreement shall remain unchanged and Seller shall promptly refund to City all amounts prepaid for maintenance services and unused.

17. ASSIGNMENT OF MANUFACTURER'S WARRANTIES:

Seller hereby assigns all warranties of the manufacturers of components of the goods to City to the extent such warranties are assignable. In the event Seller must obtain the consent of the manufacturer or take other action before any such warranties are assignable, Seller shall do so prior to delivery.

18. INDEMNITY/HOLD HARMLESS:

Seller shall defend, indemnify and hold harmless City, City's officers, employees, agents and representatives from and against all liability, claims, demands, judgments, penalties, and causes of action of any kind or character, or other costs or expenses incidental to the investigation and defense thereof, of whatever nature, resulting from or arising out of the activities of the Seller or its subsellers, agents, or employees under this contract, except, however, that the foregoing shall not apply to liability that arises out of City's negligence.

19. INSURANCE:

Commercial General Liability Insurance: If Seller will be installing or testing the goods, or otherwise performing services on City's premises, Seller shall provide a certificate indicating that Seller has commercial general liability insurance covering Bodily Injury and Property Damage on an "occurrence" form (1996 ISO or equivalent). This coverage shall include Contractual Liability insurance. Coverage will include \$1,000,000 per occurrence and \$2,000,000 general annual aggregate. Said insurance shall name City as an additional insured and shall require written notice to City thirty (30) days prior to cancellation. If Seller hires a subseller to perform services on City's premises, Seller shall ensure that Seller's subseller complies with this paragraph.

Business Automobile Liability Insurance: If Seller will be delivering the goods, Seller shall provide City a certificate indicating that Seller has business automobile liability coverage for all owned, hired, and non-owned vehicles. The Combined Single Limit per occurrence shall not be less than \$1,000,000. Said insurance shall name City as an additional insured and shall require written notice to City thirty (30) days in advance of cancellation. If Seller hires a carrier to make delivery, Seller shall ensure that said carrier complies with this paragraph.

Workers' Compensation Insurance: The Seller, its subsellers, if any, and all employers providing work, labor or materials under this Contract that are either subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage that satisfies Oregon law for all their subject workers or employers that are exempt under ORS 656.126. Out-of-state employers must provide Oregon workers' compensation coverage for their workers who work at a single location within Oregon for more than 30 days in a calendar year. Sellers who perform work without the assistance or labor of any employee need not obtain such coverage. This shall include Employer's Liability Insurance with coverage limits of not less than \$500,000 each accident.

Certificates of Insurance: As evidence of the insurance coverage required by the contract, the Seller shall furnish a Certificate of Insurance to the City. No contract shall be effected until the required certificates have been received and approved by the City. The certificate will specify and document all provisions within this contract.

20. ATTORNEY'S FEES:

In case suit or action is instituted to enforce the provisions of this contract, the parties agree that the losing party shall pay such sum as the court may adjudge reasonable attorney fees and court costs, including witness fees (expert and non-expert), attorney's fees and court costs on appeal.

21. COMPLIANCE WITH STATE AND FEDERAL LAWS/RULES

Seller shall comply with all applicable federal, state and local laws, rules and regulations, including, but not limited to, the requirements concerning working hours, overtime, medical care, workers compensation insurance, health care payments, payments to employees and subsellers and income tax withholding contained in ORS Chapter 279, the provisions of which are hereby made a part of this agreement.

22. CONFLICT BETWEEN TERMS:

It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument in the proposal of the contract, this instrument shall control and nothing herein shall be considered as an acceptance of the terms of proposal conflicting herewith.

23. SEVERABILITY:

In the event any provision or portion of this Agreement is held to be unenforceable or invalid by any court of competent jurisdiction, the validity of the remaining terms and provisions shall not be affected to the extent that it did not materially affect the intent of the parties when they entered into the agreement.

24. COMPLETE AGREEMENT:

This Agreement, including the exhibits, is intended both as a final expression of the Agreement between the parties and as a complete and exclusive statement of the terms. In the event of an inconsistency between a provision in the main body of the Agreement and a provision in the Exhibit, the provision in the main body of the Agreement shall control. In the event of an inconsistency between Exhibit A and any other exhibit, Exhibit A shall control. In the event of an inconsistency between Exhibit C and Exhibit B, Exhibit B shall control. No modification of this Agreement shall be effective unless and until it is made in writing and signed by both parties. No waiver, consent, modification, or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change if made, shall be effective only in specific instances and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. Seller, by the signature of its authorized representative, hereby acknowledges that Seller has read this Agreement, understands it and agrees to be bound by its terms and conditions.

IN WITNESS WHEREOF, City has caused this Agreement to be executed by its duly authorized undersigned officer and Seller has executed this Agreement on the date hereinabove first written.

CITY OF TIGARD

Approved by Tigard's Local Contract Review Board on: _____

By:

Date

SELLER

By: Company Name

Print Name & Title of Authorized Representative

Sign Name

Date

EXHIBIT A - GOODS AND SERVICES TO BE PROVIDED

CERTIFICATION AND CONTRACT OFFER

BID TITLE: EMERGENCY PLUMBING AND ROOTING SERVICES (#21107B)

BID OPENING: 11:00 A.M., WEDNESDAY, MARCH 6, 2002

I, the undersigned, having carefully examined the Special Instructions, Specifications, General Instructions, and all other related material and information agree to furnish emergency plumbing and roofing services as specified to Washington County at the prices bid.

I further agree that this offer to supply emergency plumbing and roofing services will remain in effect at the prices bid for a period of not less than one (1) year from the date that bids are due, and that this offer may not be withdrawn or modified during that time.

If this offer, or portion, thereof, is accepted by the Board of Commissioners and award is made thereon, I agree to enter into a contract with Washington County to furnish emergency plumbing and roofing services as specified for the prices bid.

I hereby certify that this bid is genuine and that I have not entered into collusion with any other vendor(s) or any other person(s).

The undersigned Bidder has carefully examined all bidding documents and addenda (if any) numbered -- through -- inclusive.

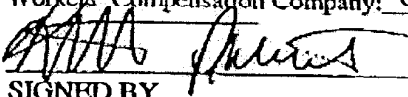
Registered with Oregon Construction Contractors Board YES Yes or No

If yes, Reg. # 106824 Expiration Date 06/2003

* "Resident Bidder" YES (Yes or No) ORS701.055

I agree to comply with the provisions as required by ORS 279.350 or 40 U.S.C. 276 for the payment of prevailing wages.

Workers' Compensation Company: CLARENDON AMER. Policy/Binder # 01XS-0270-270CA


SIGNED BY

RICHARD S. EVETT

PRINTED NAME
PRESIDENT

TITLE

BARRICH INC., DBA: METRO ROOTER & PLUMBING

FIRM

PO BOX 33585

ADDRESS

PORTLAND, OREGON 97292

PHYSICAL: 3333 NW 35TH AVE BLDG #C

PORTLAND OR 97210

TAX ID # 93-1164013

Tax Identification/Social Security Number

*"Resident Bidder" means a bidder that has paid unemployment taxes or income taxes in this state during the 12 calendar months immediately preceding submission of the bid, has a business address in this state and has stated in the bid whether the bidder is a "resident bidder".

MARCH 5, 2002

DATE

503-652-2626

PHONE: (AREA CODE)

BID FORMS**BID TITLE:** EMERGENCY PLUMBING AND ROOTING SERVICES (#21107B)**BID OPENING:** 11:00 A.M., WEDNESDAY, MARCH 6, 2002**FIRM SUBMITTING BID:** BARRICH INC., DBA: METRO ROOTER & PLUMBING**FIRM'S FINANCIAL PAYMENT TERMS (2%-10, NET-30, ETC.):** NET 30**SCHEDULE 1- ROOTING SERVICES** (Such as Floor Drain, Sink Drain, Bathroom/Shower Drain, Toilet/Urinal).

RATE	\$ AMOUNT PER HOUR	ESTIMATED HOURS	EXTENSION
First Hour Charge	\$ 69.95	45	\$ 3147.75
Normal Hourly Rate	\$ 59.95	160	\$ 9592.00
<i>Additional Time Per Quarter Hour</i>	\$ 15.00	10	\$ 150.00
After Hours Rate	\$ 69.95	120	\$ 8394.00
Holiday Hourly Rate	\$ 59.95	50	\$ 2997.50

SUBTOTAL SCHEDULE 1:
\$ 24,281.25**SCHEDULE 2- ROOTING SERVICES** (Such as Main Sewer Line/Hydro-Jetter)

RATE	\$ AMOUNT PER HOUR	ESTIMATED HOURS	EXTENSION
First Hour Charge	\$ 110.00	10	\$ 1100.00
Normal Hourly Rate	\$ 110.00	40	\$ 4400.00
<i>Additional Time Per Quarter Hour</i>	\$ 23.75	10	\$ 237.50
After Hours Rate	\$ 140.00	40	\$ 5600.00
Holiday Hourly Rate	\$ 110.00	20	\$ 2200.00

BID FORMS
Continued

SUBTOTAL SCHEDULE 2:

\$ 13,537.50

SCHEDULE 3- ROOTING SERVICES (Such as Main Sewer Line/Continuous Rod Machine)

RATE	\$ AMOUNT PER HOUR	ESTIMATED HOURS	EXTENSION
First Hour Charge	\$ 69.95	10	\$ 699.50
Normal Hourly Rate	\$ 59.95	20	\$ 1199.00
<i>Additional Time Per Quarter Hour</i>	\$ 15.00	10	\$ 150.00
After Hours Rate	\$ 69.95	10	\$ 699.50
Holiday Hourly Rate	\$ 59.95	10	\$ 599.50

SUBTOTAL SCHEDULE 3:

\$ 3,347.50

SCHEDULE 4- ROOTING SERVICES (Such as Video Camera Drain, Lateral Lines)

RATE	\$ AMOUNT PER HOUR	ESTIMATED HOURS	EXTENSION
First Hour Charge	\$ 110.00	10	\$ 1100.00
Normal Hourly Rate	\$ 110.00	20	\$ 2200.00
<i>Additional Time Per Quarter Hour</i>	\$ 27.50	10	\$ 275.00
After Hours Rate	\$ 140.00	20	\$ 2800.00
Holiday Hourly Rate	\$ 140.00	10	\$ 1400.00

SUBTOTAL SCHEDULE 4:

\$ 7,775.00

BID FORMS
Continued

SCHEDULE 5- ROOTING SERVICES (Such as Tractor Camera, Big Bore Pipe)

RATE	\$ AMOUNT PER HOUR	ESTIMATED HOURS	EXTENSION
First Hour Charge	\$ 65.00	10	\$ 650.00
Normal Hourly Rate	\$ 65.00	20	\$ 1300.00
<i>Additional Time Per Quarter Hour</i>	\$ 65.00	10	\$ 650.00
After Hours Rate	\$ 75.00	20	\$ 1500.00
Holiday Hourly Rate	\$ 75.00	20	\$ 1500.00

SUBTOTAL SCHEDULE 5:

\$ 5,600.00

SCHEDULE 6- ROOTING SERVICES (Such as Plumbing Fixture Repair, Pipe Repair)

RATE	\$ AMOUNT PER HOUR	ESTIMATED HOURS	EXTENSION
First Hour Charge	\$ 69.95	30	\$ 2098.50
Normal Hourly Rate	\$ 59.95	300	\$ 17985.00
<i>Additional Time Per Quarter Hour</i>	\$ 15.00	10	\$ 150.00
After Hours Rate	\$ 69.95	100	\$ 6995.00
Holiday Hourly Rate	\$ 59.95	50	\$ 2997.50

SUBTOTAL SCHEDULE 6:

\$ 30,226.00

BID FORMS
Continued

SCHEDULE 7- ROOTING SERVICES (Such as Pipe Freezing, Pipe Thawing)

RATE	\$ AMOUNT PER HOUR	ESTIMATED HOURS	EXTENSION
First Hour Charge	\$ 79.95	15	\$ 1199.25
Normal Hourly Rate	\$ 69.95	75	\$ 5246.25
<i>Additional Time Per Quarter Hour</i>	\$ 17.50	10	\$ 175.00
After Hours Rate	\$ 79.95	65	\$ 5196.75
Holiday Hourly Rate	\$ 69.95	40	\$ 2798.00

SUBTOTAL SCHEDULE 7:
\$ 14,615.25

SCHEDULE 8- BACKHOE SERVICES

RATE	\$ AMOUNT PER HOUR	ESTIMATED HOURS	EXTENSION
First Hour Charge	\$ 95.00	10	\$ 950.00
Normal Hourly Rate	\$ 95.00	20	\$ 1900.00
<i>Additional Time Per Quarter Hour</i>	\$ 25.00	10	\$ 250.00
After Hours Rate	\$ 115.00	20	\$ 2300.00
Holiday Hourly Rate	\$ 95.00	20	\$ 1900.00

SUBTOTAL SCHEDULE 8:
\$ 7,300.00

BID FORMS
Continued

SCHEDULE 9- PUMPING SERVICE

MATERIAL	UNIT OF MEASURE	COST PER UNIT	ESTIMATED QUANTITIES	EXTENSION
Sewer & Septage	Gallon	\$.205	1000	\$ 205.00
Stormwater	Gallon	\$.285	450	\$ 128.25
Catch Basins	Basin	\$ 39.00	60	\$ 2340.00
Vacuum Excavation	Hour	\$ 110.00	30	\$ 3300.00
Vacuum Disposal	Ton	\$ 75.00	2	\$ 150.00
Stand-by Time	Hour	\$ 50.00	40	\$ 2000.00

SUBTOTAL SCHEDULE 9:
\$ 8,123.25

SCHEDULE 10 - LINING SERVICE

MATERIAL	UNIT OF MEASURE	COST PER UNIT	ESTIMATED QUANTITIES	EXTENSION
4"	Foot	\$ 60.00	200	\$ 12000.00
6"	Foot	\$ 89.00	100	\$ 8900.00
8"	Foot	\$ 92.00	100	\$ 9200.00

SUBTOTAL SCHEDULE 10:
\$ 30,100.00

BID FORMS
Continued

SCHEDULE 11 - LINING SERVICE

MATERIAL	UNIT OF MEASURE	COST PER UNIT	ESTIMATED QUANTITIES	EXTENSION
Electronic Leak Detection	Hour	\$ 95.00	20	\$ 1900.00
Electronic Pipe Locating	Hour	\$ 95.00	20	\$ 1900.00

SUBTOTAL SCHEDULE 11:
\$ 3,800.00

TOTAL OF ALL SCHEDULES (1-11)	\$ 148,705.75
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TRADE SERVICES CONTRACT

This contract is between Washington County, a political subdivision of the State of Oregon ("County"), and Barrich Inc., DBA: Metro Rooter & Plumbing, ("Contractor").

County and Contractor, in consideration of the mutual promises, terms and conditions provided herein, agree to the following:

SECTION 1 - PURPOSE AND STANDARD OF SERVICES

This contract sets forth the responsibilities and clarifies the relationship between the County and the Contractor.

- 1.2 All work shall be performed in a professional manner and unless the means or methods of performing a task are specified elsewhere in this contract, Contractor shall employ methods that are generally accepted and used in the industry, in accordance with industry standards. County's authorized representative shall have access to and the right to inspect the work at all times. Defective work shall be corrected at Contractor's expense.
- 1.3 Contractor shall comply with all federal, state and local laws, codes, regulations and ordinances applicable to the work in this contract. Unless otherwise specified in this contract, Contractor shall obtain all permits necessary to perform the work. Failure to comply shall constitute a material breach of this contract.

SECTION 2 - CONSIDERATION

- 2.1 Contractor shall perform the work described in Attachment A, in consideration for which County agrees to pay for the work in the manner as further described in this contract.

The maximum amount payable under this contract is **\$325,000.**, unless otherwise amended. Contractor bears the risk of non-payment for services in excess of the amount stated above without prior County approval; but County reserves the right to ratify and pay for such services in its sole discretion.

If applicable, payments based upon hourly rates or other measurements and provisions for travel expenses are set forth and identified in Attachment A.

Unless otherwise stated in Attachment A, the payment terms are thirty days after invoice approval by the County Contract Administrator.

SECTION 3 - CONTRACT TERM

- 3.1. The effective date is: April 1, 2002, or upon final signature, whichever is later.

The expiration date is: March 31, 2005, unless otherwise amended.

Passage of the contract expiration date shall not extinguish or prejudice the County's right to enforce this contract with respect to any default or defect in performance that has not been cured.

SECTION 4 - ADDITIONAL DOCUMENTS AND ATTACHMENTS

The following documents are incorporated into this contract:

- ☒ ITB# : 21107B
- ☒ Contractor's Response Dated : 3-5-02
- ☒ Standard Contract Terms and Conditions, provided however, insurance under Article 23.2. is not required.

- 4.2. The following Attachments are incorporated into and made a part of this contract:

- ☒ Attachment A - Statement of Work/Schedule/Payment Terms
- ☐ Attachment B - Modifications to Standard Contract Terms and Conditions
- ☐ Attachment C - Modifications to Standard Insurance Requirements
- ☐ Attachment D - Federal Certifications
- ☒ Attachment E - Prevailing Wage Standards
- ☐ Other - _____.

- 4.3. In the event there is a conflict between the documents comprising this contract, the following order of precedence shall apply: the terms and conditions in the body of this contract; Standard Contract Terms and Conditions, Attachment A; Attachment B; Attachment C; Attachment D; Attachment E; the ITB; and Contractor's Response.

SECTION 5 - COUNTY CONTRACT ADMINISTRATOR

Name: Doug Stoller
Mail Stop 42
Address: 111 SE Washington St.
Hillsboro, OR 97123
Telephone: (503)846-4841

SECTION 6 - SIGNATURES

CONTRACTOR:

By my signature below, I certify that I am authorized to execute this contract on behalf of Contractor:

[Signature]
Signature

4-3-02
Date

Richard Everett
Name (Printed)

[Signature]
Title

Address: 3333 NW 35TH Ave Bldg C

93-1164013
Tax Identification Number

Contractor Contact Person:

Name: Richard Everett

E-Mail: _____

COUNTY:

[Signature]
Signature

5-9-02
Date

Tom Brian

Chairman Board of Commissioners
Title

Recording Secretary:	(For use with Board items)
<u>Barbara Heftman</u>	Minute Order #: <u>02-96</u> <u>4-2-02</u>

ATTACHMENT A

Statement of Work /Schedule/Payment Terms

Work to be Performed

Contractor shall furnish all labor, materials, permits, equipment, tools and all other items necessary for and incidental to executing and completing emergency roofing and plumbing services, and related plumbing installation and repair.

Manner of Performing Work

The contractor shall protect the interior and exterior of the building, the contents, and the people therein during the course of the project.

The contractor shall perform his work activities in such a manner that they will not interfere with the normal activities of the facility or its employees.

The contractor shall clean the work site each day and upon completion of the project, remove all debris from the premises. The work site shall be left in a condition comparable with that at the beginning of the project. Failure to do so allows the County to perform necessary cleanup action and bill the contractor for direct costs.

The apparent silence of this contract as to any detailed description concerning any point shall be regarded as meaning that only best commercial practice is to prevail and that only materials and workmanship of first quality are to be used.

Work performed by contractor shall be monitored, reviewed and subject to acceptance by County Contract Administrator.

Authorization for Work

Emergency work will be authorized by telephone contact from the County Contract Administrator's Project Coordinator to the Contractor. Upon such contact, the Contractor shall be authorized to go to the site of the emergency, and take whatever actions are reasonably necessary to remedy the plumbing emergency, including repairs not to exceed a total cost of one thousand dollars (\$1,000). Contractor shall assess the problem causing the emergency. In the event additional repairs or installations will be needed to correct the problem, Contractor shall send by FAX a written estimate of the work needed, the cost thereof, and the time required. The County Project Coordinator shall approve or disapprove such work by telephone and by return FAX to the Contractor. Contractor shall not exceed the approved estimate unless, prior to performing any work exceeding the estimate, it contacts the County Project Coordinator and verbal or written approval for such additional work is given.

ATTACHMENT A

Statement of Work /Schedule/Payment Terms

Payment for Work

Where the work requires use of equipment mentioned or inherent in the bid schedule, the hourly rate shall include such equipment together with the services of one operator. If work to be performed requires special equipment, the contractor, with prior approval of the County Contract Administrator or designee, may bill for rental equipment or use of their own special equipment at contractor's cost only with no additional fees.

Payment shall be based on labor and materials actually used for the work, with hourly rates or other units of work as stated in contractor's bid for the applicable kind of work. For general plumbing work not otherwise specified, and for work in which an additional worker is required, the labor cost shall be \$59.95 per hour per person, and shall include use of all needed tools and equipment to perform the work.

All materials shall be paid for at cost plus ten percent (10%).

Contractor's invoices shall itemize all charges and identify the location at which work was performed.

STANDARD CONTRACT TERMS AND CONDITIONS

Subcontracts and Assignment. Contractor shall not enter into any subcontracts for any of the work required by this contract, or assign or transfer any of its interest in this contract, without the prior written consent of County. The provisions of this contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns, if any.

2. **Third Party Beneficiaries.** County and Contractor are the only parties to this contract and are the only parties entitled to enforce its terms. Nothing in this contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this contract.
3. **Written Notice.** Any notice of change, termination, or other communication having a material effect on this contract shall be upon the County Contract Administrator and the Contractor Contact Person and served in one of the following manners: a) In-person delivery; or b) deposited in the U.S. Mail under certified or registered handling, postage prepaid. Except as provided in this contract, it is agreed that fifteen calendar days shall constitute reasonable notice for the exercise of any right in the event that applicable law specifically requires such notice.
4. **Governing Law/Venue/Attorney Fees.** This Contract shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between County and Contractor that arises from or relates to this contract shall be brought and conducted solely and exclusively within the Circuit Court of Washington County for the State of Oregon; provided, however, if a Claim is brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. CONTRACTOR, BY EXECUTION OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS. The prevailing party in a Claim shall be entitled to reasonable attorney fees and costs as awarded by the court, including any appeal.
5. **Remedies Cumulative.** All rights and remedies of County and Contractor shall be cumulative and may be exercised successively or concurrently. The foregoing is without limitation to or waiver of any other rights or remedies of County according to law.
6. **Severability/Waiver.** County and Contractor agree that, if any term or provision of this contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular term or provision held to be invalid. The failure of either party to enforce any provision of this contract shall not constitute a waiver by that party of that or any other provision of this contract.
7. **Public Contracting Statutes.**
 - 7.1 All requirements of Oregon Revised Statutes Nos. 279.310 through 279.430, Public Contracting, including but not limited to the following, as applicable, are incorporated herein by reference:
 - a. ORS 279.314, concerning payment of claims by public officers
 - b. ORS 279.316, concerning hours of labor; and
 - c. ORS 279.320, concerning payment for medical care.

7.2. The Contractor agrees to:

- a. Make payment promptly, as due, to all persons supplying, to Contractor, labor or material for the prosecution of the work provided for in this contract;
- b. Pay all contributions or amounts due the Industrial Accident Fund incurred in the performance of the contract;
- c. Not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished pursuant to this contract; and
- d. Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

8. Independent Contractor.

8.1. Contractor shall perform the work required by this contract as an "Independent Contractor." Although County reserves the right to determine the delivery schedule for the work to be performed and to evaluate the quality of the completed performance, the County cannot and will not control the means or manner of the Contractor's performance. The Contractor shall comply promptly with any requests by County relating to the emphasis or relative emphasis to be placed on various aspects of the work or to such other matters pertaining to the work under this contract. Contractor is responsible for determining the appropriate means and manner of performing the work.

8.2. Contractor represents and warrants that Contractor is not an employee of the County, is not currently employed by the Federal Government, meets the specific independent Contractor standards of ORS 670.600, and is not an "officer", "employee", or "agent" of the County, as those terms are used in ORS 30.260 et. seq.

Contractor shall be responsible for all federal or state taxes applicable to any compensation or payments paid to Contractor under this contract. Contractor is not eligible for any federal Social Security, unemployment insurance, or workers' compensation benefits from compensation or payments paid to Contractor under this contract.

Contractor agrees to immediately provide County notice of any claim made against Contractor by any third party. Contractor also agrees not to assign to any third party, without County's written consent, any obligation of County to indemnify Contractor for any actions under this contract.

9. Indemnification. Contractor shall hold harmless, indemnify, and defend the County, its Commissioners, employees, and agents for any and all claims, damages, losses, and expenses, including but not limited to reasonable attorney(s) fees arising out of or resulting from Contractor's performance of or failure to perform the obligations of this contract.

10. Nondiscrimination. No person shall be denied or subjected to discrimination in receipt of the benefits of any services or activities made possible by or resulting from this contract on the grounds of race, color, religion, gender, sexual orientation, national origin, disability, age, or marital status. Any violation of this provision shall be considered a material defect and shall be grounds for cancellation, termination or suspension in whole or in part by the County.

11. Termination

11.1. This contract may be terminated under the following conditions:

- a. By mutual consent of both parties.
- b. Contractor may terminate this contract upon a material default of County; however, Contractor must provide written notice to the County Contract Administrator and provide County with thirty days to cure the default.
- c. County may at any time terminate, the whole or any part of, this contract for default if Contractor fails to perform any of the provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms, and after receipt of written notice from the County, fails to correct such failures within seven calendar days or such other period as the County may authorize or require.

Upon receiving a notice of termination issued by County, Contractor shall immediately cease all activities under this contract, unless expressly directed otherwise by County in the notice of termination.

- 11.3. In the event the Board of Commissioners of Washington County reduces, changes, eliminates, or otherwise modifies the funding for this contract, or if funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services, then County may terminate this contract, in whole or in part, effective upon delivery of written notice to the Contractor, or at such later date as may be established by the County, and Contractor agrees to abide by any such decision.

In addition to its other rights to terminate, County may terminate this contract in whole or in part upon thirty days' notice to Contractor when it is determined to be in the best interests of County. During this thirty-day period, Contractor shall wind down and cease its services as quickly and efficiently as possible, without performing unnecessary services or activities and by minimizing negative effects on County from such winding down and cessation of services.

The rights and remedies of the County provided in this section, are not exclusive and are in addition to any other rights and remedies provided by law or under this contract.

If this contract is terminated under subsections 11.3 or 11.4, County shall be liable only for payment in accordance with the terms of this contract for services satisfactorily rendered prior to the effective date of termination.

Upon termination, Contractor shall deliver to County all contract documents, information, works-in-progress, and other property that are or would be deliverables had the contract been completed.

- 12. **Time is of the essence.** Time is of the essence in Contractor's performance of each and every obligation and duty under this contract
- 13. **Force Majeure.** Neither County nor Contractor shall be held responsible for delay or default caused by fire, riot, acts of God, or war where such cause was beyond, respectively, County's or Contractor's reasonable control. Contractor shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this contract
- 14. **Compliance with Applicable Law.** Contractor and its subcontractor(s) shall comply with all federal, state, and local laws and ordinances applicable to the work performed under this contract including, but not limited to the following, as applicable: Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act

of 1973, the Americans with Disabilities Act of 1990 (Pub L. No. 101-336), ORS 659.425 and all regulations and administrative rules established pursuant to those laws; and all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

15. **Oregon Registration.** If Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to this contract.
16. **Use of County Facilities.** Contractor and its employees or agents shall have the right to use only those facilities of County that are necessary to perform the services under this contract and shall have no right of access to any facility of the County without prior approval of County management. County shall have no responsibility for the loss, theft, mysterious disappearance of or damage to equipment, tools, materials, supplies, and other personal property of Contractor or its employees, subcontractors or agents which may be stored on County premises.
17. **Publicity.** Contractor shall not use in its external advertising, marketing programs or other promotional efforts, any data, pictures, or other representations of the County except on prior specific written authorization from County management.
18. **Survival.** The terms, conditions, representations, and all warranties contained in this contract shall survive the termination or expiration of this contract.
19. **Counterparts.** This contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute one and the same instrument.
20. **Warranties.** Contractor represents and warrants to County that: (a) Contractor has the power and authority to enter into and perform the contract, (b) the contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms, and (c) Contractor's performance under the contract shall be in a good and workmanlike manner and in accordance with the professional standards.
21. **Records.** Contractor shall maintain all fiscal records relating to this contract in accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other records pertinent to this contract in such a manner as to clearly document Contractor's performance hereunder. Contractor acknowledges and agrees that County and its duly authorized representatives shall have access to such fiscal records and all other books, documents, papers, plans, and writings of the Contractor that are pertinent to this contract. All such fiscal records, books, documents, papers, plans, and writing shall be retained by Contractor and kept accessible for a minimum of three years, except as required longer by law, following final payment and termination of this contract, or until the conclusion of any audit, controversy, or litigation arising out of or related to this contract, whichever date is later. All subcontracts shall also comply with these provisions.
22. **Work Product.** All work products of the Contractor which result from this contract ("the work products"), except material previously and mutually identified as confidential or proprietary, shall be provided to County upon request and shall be considered the exclusive property of the County. In addition, if any of the work products contain intellectual property of the Contractor that is or could be protected by federal copyright, patent, or trademark laws, or state trade secret laws, Contractor hereby grants County a perpetual, royalty-free, fully paid-up, nonexclusive and irrevocable license to copy, reproduce, perform, dispose of, use and re-use, in whole or in part, and to authorize others to do so. Such work products include, but are not limited to: databases, templates, file formats, scripts, links, procedures, materials, training manuals and other training

materials, specially created key commands, and any other information, designs, plans, or works provided or delivered to the County or produced by Contractor under this contract.

23. **Insurance.** The Contractor shall purchase and maintain, at the Contractor's expense, the types of insurance listed below, covering the Contractor, its employees and agents:

The following policies shall name Washington County, its Commissioners, employees, and agents, as an ADDITIONAL INSURED:

- a. **Comprehensive general liability insurance** covering personal injury and property damage with a combined single limit, or the equivalent of not less than \$500,000. This insurance shall include contractual liability coverage for the indemnity provided under this contract;
- b. **Automobile liability insurance** with combined single limit coverage of not less than \$500,000 each claim, incident, or occurrence.

Professional Liability Insurance with a combined single limit of not less than \$1,000,000 each claim, incident or occurrence. This is to cover damages caused by error, omission or negligent acts related to the professional services to be provided under this contract.

Workers' Compensation Insurance in compliance with 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers.

A copy of the policy or Certificate of Insurance acceptable to the County shall be filed with the County prior to the effective date of this contract. The policy or certificate shall provide for thirty days' notice of cancellation or material change.

24. **County Policies.** During the performance of this contract, Contractor shall follow County's Affirmative Action Program which is to promote the objectives of the Equal Employment Opportunity Commission's guidelines as set forth in the Equal Employment Opportunity Act of 1972, Oregon State Laws, legal mandates, and Presidential Executive Order 11246 entitled Equal Employment Opportunity as amended by Executive Order 11375 and as supplemented in Department of Labor Regulation 41 CFR part 60. Contractor shall also follow the County Harassment Free and Violence in the Workplace Policies. All subcontracts shall also comply with these provisions.
25. **Amendment.** This contract may only be amended by a written amendment signed by authorized agents of both parties.
26. **Whole Contract.** THIS CONTRACT CONSTITUTES THE COMPLETE AND EXCLUSIVE STATEMENT OF THE CONTRACT BETWEEN THE PARTIES RELEVANT TO THE PURPOSE DESCRIBED HEREIN AND SUPERSEDES ALL PRIOR AGREEMENTS OR PROPOSALS, ORAL OR WRITTEN, AND ALL OTHER COMMUNICATION BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER OF THIS CONTRACT.

EXHIBIT C

CITY OF TIGARD (Buyer) STANDARD TERMS AND CONDITIONS

1. **Packing & Shipment.** Deliveries shall be made as specified, without charge for boxing, crating, carting or storage. Material shall be suitably packed to ensure against damage from weather or transportation and to secure lowest transportation costs, and in accordance with the requirements of common carriers. Buyer's Order number and symbols must be plainly marked on all invoices, packages, bills of lading and shipping orders. Packing lists shall accompany each box or package shipment. Buyer's count or weight shall be conclusive on shipment not accompanied by packing lists. Unless otherwise specifically agreed on the reverse side of this Agreement, all costs of packaging and shipment are included in the purchase price and all goods will be shipped, with all costs prepaid. Risk of loss to goods in shipment (including damage, destruction, theft, or loss) shall be borne by the Seller. Risk of loss shall not pass to Buyer until the goods are delivered to and checked in at the location specified by Buyer in this Order.
2. **Warranty.** Unless otherwise agreed in writing, Seller warrants that the products ordered will conform to the specifications herein and to any drawings, samples, or other description furnished or adopted by Buyer. All products are warranted to be merchantable, to be of the highest quality design, material, and workmanship and free from defect and to be fit for purpose intended. All warranties shall survive inspection or test, acceptance and payment. Warranties shall run to Buyer, its successors, assigns and customers. Warranty period shall be (1) year from date of acceptance by Buyer.
3. **Inspection and Acceptance.** At Buyer's request, Seller shall provide a complete inspection program; satisfactory to Buyer, for Buyer's inspection of all materials, fabricating methods, equipment in process work and finished products. If this Order provides for inspection of the work by Buyer on site during the period of manufacture, Seller agrees to provide Buyer's inspectors with reasonable facilities and assistance during such inspection. Inspection by Buyer shall not unduly delay the work. Buyer may charge Seller any additional cost incurred by Buyer if the work is not ready in accordance with the inspection schedule. Any inspection made or Waiver-of-Inspection-Notice given by Buyer will not relieve Seller from its responsibilities for delivering products and work hereunder. Acceptance or rejection of the products shall be made up to 10 days after delivery and inspection by Buyer except as otherwise provided herein. Failure to inspect and accept or reject products shall neither relieve Seller from responsibility for such products, which do not meet the requirements herein nor impose liability on Buyer therefor.
4. **Delivery.** If Seller fails to meet the delivery schedule provided herein, Buyer may require Seller to deliver the products, or any portion thereof, in any manner commercially necessary to speed delivery, all at the Seller's sole expense. Unless otherwise agreed upon in writing by Buyer and Seller, Seller shall be required to pay the normal freight weight plus any premium rate required. Invoices covering products shipped in advance of the date specified will not be paid until after the date specified for delivery and are subject to rejection, as provided in this paragraph immediately below, if shipped too early. Neither party shall be liable for delays or defaults due to strike, fire, windstorm, riot, natural disaster, war, civil unrest or other similar unforeseeable cause beyond the control and without the fault or negligence of the party incurring such delay. Seller shall notify Buyer in writing of the existence of such cause within five (5) days after the commencement of the delay or default giving pertinent information concerning such cause. No delivery shall be made more than seven (7) days prior to the applicable delivery date, and Buyer shall have the right to return earlier deliveries at Seller's risk and expense or charge to Seller any additional costs sustained because of the same.
5. **Buyer-Furnished Materials.** Seller shall assume all risk of loss of any material furnished by Buyer to Seller for use in performance of this Order.
6. **Taxes.** Seller shall not invoice Buyer for any taxes nor include in Seller's price any federal excise, state, or city tax or any other tax, unless Seller has first asked Buyer for Buyer's tax exemption number and it has been agreed upon between both parties that Buyer is not exempt from the tax.
7. **Changes.** Buyer may, by written order, make changes including changes in drawings or specifications. Buyer will equitably adjust any difference in cost or time for performance resulting from such change and the Order modified in writing accordingly. ANY CLAIM BY SELLER UNDER THIS CLAUSE MUST BE ASSERTED IN WRITING WITHIN 30 DAYS FROM THE DATE OF SELLER'S RECEIPT OF THE CHANGE ORDER OR THE CLAIM WILL NOT BE ALLOWED. In the event that Buyer proposes any change prior to making such change by written order and such change will have an effect on the warranty of the products procured by this Order, Seller shall notify Buyer in writing of such effect within 10 days of receipt of such proposal.
8. **Advertising.** Seller shall not, without the written consent of Buyer, in any manner advertise or publish the fact that Seller has furnished or contracted to furnish to Buyer the products herein.
9. **Cancellation for Cause.** Buyer may cancel all or any part of the undelivered portion of this Order if Seller breaches any of the terms hereof or in the event of any of the following: Insolvency of Seller, a voluntary or involuntary petition in bankruptcy for, by or against Seller; the appointment of a receiver or trustee for Seller, or an assignment for the benefit of creditors by Seller or if Buyer has reasonable cause to believe Seller will become insolvent, file for bankruptcy, go out of business or that the products being shipped may be subject to lien, claim or attachment by a creditor of Seller. Any such cancellation under this section shall be

cancellation for cause and in the event of such cancellation, Buyer shall have the right to complete, or cause to have completed, this Order including the right to cause Seller to produce, without liability of any kind to the Buyer, proprietary items of the Seller as necessary to complete the Order. The remedies and damages in this section shall be cumulative and in addition to any other or further remedies provided at Law or in Equity, including reasonable and necessary attorney's fees and other costs of litigation.

10. Termination. City has the right, in its sole discretion, to terminate without cause or for no cause, to termination this Agreement at any time by giving notice to Seller. If City terminates the contract pursuant to this section, it shall pay Seller for goods shipped by Seller prior to receipt by Seller of the notice of termination. City may deduct the amount of damages, if any, sustained by City due to any breach of contract or warranty by Seller. Damages for breach of contract or warranty shall be those allowed by Oregon law, reasonable and necessary attorney fees, witness fees (expert and non-expert), and other costs of litigation at trial and on appeal.
11. Assignment and Subcontracting. Seller may not assign or subcontract any of its rights or obligations hereunder without the prior written approval of Buyer. Any unapproved assignment shall be void. Seller shall be fully responsible for the acts or omissions of any subcontractors and all persons employed by them, and neither the approval by Buyer of any subcontract nor anything contained herein shall be deemed to create any contractual relation between the subcontractor and the Buyer. Buyer may assign its rights under this Order.
12. Work on Buyer's Premises. If Seller's performance of this Order involves operations by Seller on Buyer's premises, Seller shall (a) provide all necessary and sufficient safeguards and take all proper precautions against the occurrence of injury to any person or damage to any property, and shall be responsible for and shall indemnify and hold harmless Buyer, its representatives, officers, employees, and agents from any and all loss, suit, action or claim, including cost and attorney's fees, by reason of injury, including death, to any person and carry public liability and property damage insurance with limits of liability of not less than \$300,000 each, unless higher limits are required by a signed purchase agreement, with contractual liability endorsement and such insurance of employees as may be required by any workmen's compensation act or other law, regulation or ordinance which may apply in the premises. Such public liability and property damage insurance shall also cover the operation of Seller's vehicles used in the performance of Seller's operations. Any policy of insurance written in accordance with the foregoing shall be appropriately endorsed to named Buyer, it's officials, employees and agents as additional insureds, with provisions that such insurance is primary insurance with respect to their interest, and that any other insurance maintained by Buyer is excess and not contributory insurance with the insurance required hereunder, with cross-liability or severability of interest provisions, and shall further provide that the coverage provided thereby shall not be modified or discontinued or terminated except upon 30 days prior written notice to Buyer. Compliance shall be verified by Certificate of Insurance with appropriate endorsements sent to Buyer prior to Seller commencing work on Buyer's premises. Any work performed on Buyer's premises must be done pursuant to all OSHA standards, all applicable State and Federal health and safety laws, rules and regulations and all workers must be covered by workers' compensation insurance furnished through and paid for by Seller.
13. Stop Work Order. Buyer may, at any time by written order to Seller, require Seller to stop all, or any part of the work called for by this Order for a period of 90 days after the written order is delivered to Seller, and for any further period to which the parties may agree and for any other period to which the parties may have agreed or as provided in Section 4, 10, and/or 11. Within the period of 90 days or less or within any extension of that period, Buyer shall either: (a) cancel the "Stop Work Order" and direct Seller to resume work; or (b) terminate the work covered by this Order. If Buyer orders Seller to resume work, Seller shall be entitled to any equitable adjustment pursuant to Section 8 provided a claim for such an adjustment shall be submitted by Seller within 30 days after the end of the period of work stoppage.
14. Payment. Payment date and cash discount period shall be calculated from the date of Buyer's receipt of an acceptable invoice and Buyer's acceptance of the products and supporting documentation at destination.
15. Information/Data. Unless otherwise agreed in writing any designs, drawings, specifications, or other manufacturing information furnished by Buyer to Seller shall be confidential to Buyer and is furnished solely for the performance of this Order. All copies of such information shall be returned to Buyer upon completion of the Order. Any designs, drawings, specifications, or other manufacturing information delivered by Seller to Buyer may be used for any purpose whatsoever. The foregoing shall apply notwithstanding the presence or absence of any contrary legend or statement on any of such information. All business and governmental information materials containing business and governmental information provided by Buyer to Seller shall be treated as confidential.
16. Compliance with Laws and Regulations. Seller warrants that all products, goods, or work delivered and performed shall comply with all applicable Federal, State or Local Laws or Regulations including without limitation The Occupational Safety and Health Act (29 USC. Chapter 15); Federal Hazardous Material Transportation Act (49 USC. Chapter 27); Equal Employment Opportunity; E.O. 11246 and 41 CFR Sections 60-1.4 and 60-1.7; Employment of the Handicapped E.O. 11758 and 41 CFR Section 60-741-4; Utilization of Minority Enterprises E.O. 11625 and 41 CFR Subpart 1-1.13; Age Discrimination E.O. 11141, Employment of Veterans E.O. 11701 and 41 CFR Section 50-250.4 and all rules, regulations and amendments issued pursuant to the foregoing. Seller shall indemnify Buyer, its officers, employees and agents against any damages, penalties, costs or expenses incurred in connection with any alleged violation of any Federal, State or Local Law or regulating the manufacture or sale to the Buyer of any Item covered by this Order.
17. Patents, Copyrights, Trademarks. Seller warrants that no products will be furnished hereunder, which infringe or contribute to the infringement of any letters patent, copyright or trademark. Seller agrees to immediately replace at its sole cost any products

furnished hereunder which infringe or contribute to the infringement of any letters patent, copyright or trademark or to take all steps necessary at Seller's sole expense to remove such infringement.

Seller will indemnify and hold harmless Buyer, its representatives, officers, employees and agents from and against any and all costs, royalties, damages and/or expenses which may arise out of or result from, or be reasonably incurred in contesting any claims that the methods, processes or acts by the Seller or its employees or the products furnished hereunder, infringes or contributes to the infringement of any letters, patent, copyright or trademark.

18. Waiver. The failure of Buyer to enforce at any time any of the provisions of this Order or to exercise any option herein provided, shall not be a present or future waiver of such provisions, nor in any way affect the validity of this Order or any part hereof, or the right thereafter to enforce each and every such provision. The express waiver (whether one (1) or more times) of any provision, condition or requirement shall not constitute a waiver of any future obligation to comply with such provision, condition or requirement.
19. Independent Contractor. Seller is an independent contractor and persons employed by Seller shall be employees of Seller and not employees of Buyer.
20. Complete Agreement. The Purchase Order and any referenced attachments constitute the complete agreement between the parties. Except as otherwise provided herein, it is subject to change only by an instrument signed in writing by both parties.
21. Acceptance by Performance. If Seller fails provide to Buyer with a signed copy of this order, but delivers product or performs the services specified in this agreement, then Seller agrees that the Seller shall be deemed to have accepted the terms and conditions of this order, as provided on both the front and this reverse side of the order. Buyer must agree any changes or modifications to this order by Seller to, in writing, or they shall not be deemed accepted by Buyer and if the Seller delivers the products nonetheless, then the original terms and conditions of this order shall govern.
22. Mandatory Mediation and Binding Arbitration. If there is a dispute concerning any of the terms, conditions or the performance of this order, then it is hereby agreed by both Buyer and Seller that the dispute shall be submitted first to non-binding mediation, to be performed by a sole mediator to be agreed upon between Buyer and Seller. If a mediator cannot be agreed upon, then the parties agree that any Circuit Court judge for the State of Oregon, County of Washington, shall be authorized to appoint a mediator for the parties.

Should the parties fail to reach an agreement through mediation, then the parties shall submit to binding arbitration, which shall be governed by the rules of the Arbitration Service of Portland, and shall be conducted within Washington County. The arbitration shall be conducted by a single arbitrator chosen by mutual agreement of the parties. If the parties are unable to agree on an arbitrator, the parties shall ask the Presiding Judge of the Circuit Court for Washington County to select the arbitrator. If the arbitrators determine that one party is the prevailing party, then the losing party shall be required to pay all fees and costs of the arbitration. On the other hand, if the arbitrators determine that neither party is to be considered the prevailing party, then the fees and costs of the arbitration shall be divided equally between the parties. The parties knowingly and voluntarily waive their rights to have their dispute tried and adjudicated by a judge or jury. In the event a party fails to proceed with arbitration, unsuccessfully challenges the arbitrator's award, or fails to comply with the arbitrator's award, then the other party shall be entitled to costs, including reasonable attorney fees, for having to compel arbitration or defend or enforce the award. The parties agree to defend the arbitrator and any individual engaged in the administration of an arbitration proceeding from any subpoenas or claims from third parties arising out of this order or the arbitration.

23. Jurisdiction and Attorney Fees. This order shall be governed and construed according to the laws of the State of Oregon. If a dispute shall arise under this order necessitating the services of an attorney, then the prevailing party shall be entitled to collect from the losing party all of its/his/her reasonable costs and attorney fees, either in arbitration (if awarded by the arbitrator as provided above), or by a court before which any matter concerning this order may be heard, both at trial and on appeal.
24. Neutral Interpretation. This order constitutes the product of negotiations between the parties hereto. Any enforcement hereof will be interpreted in a neutral manner and not more strongly for or against any party based upon the source of draftsmanship.
25. Severability. Nothing contained herein shall be construed to require the commission of any act contrary to law, and wherever there is any conflict between the provisions contained herein and any present or future statute, law, ordinance or regulation contrary to which to the parties have no legal right to contract, the latter shall prevail. The provision of this Agreement, which is affected, shall be curtailed and limited only to the extent necessary to bring it within the requirement of the law.
26. Calculation of Time. All periods of time referred to herein shall include Saturdays, Sundays, and legal holidays in the State of Oregon, except that if the last day of any period falls on any Saturday, Sunday or such holiday, then that period shall be extended to include the next day which is not a Saturday, Sunday or holiday.

Notice. Any notice required or permitted to be given by either party to the other shall be deemed to have been given when sent via telecopy, overnight air courier, or deposited in the United States mail certified, return receipt requested, with first class postage prepaid, addressed as indicated on the front of this order, or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing. Notice shall also be considered effective upon delivery if personally delivered.

27. Conditions of Supplying a Public Agency. Where applicable, seller must make payment promptly as due to persons supplying Seller labor or materials for the execution of the work provided by this order. Seller must pay all contributions or amounts due from Seller to the industrial accident fund incurred in the performance of this order. Seller shall not permit any lien or claim to be filed or prosecuted against Buyer or any subdivision of Buyer on account of any labor or material to be furnished. Seller further agrees to pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

28. Payment of Claims by Public Officers. In the event that Seller fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to Seller or a subcontractor of Seller by any person in connection with the performance of this order when such claim becomes due, then the proper officer or officers representing the Buyer hereunder may pay such claim to the person furnishing the labor or services and charge the amount of the payment against the funds due or to become due to the Seller by reason of this order. The payment of a claim in the manner authorized by this provision shall not relieve the Seller or any of the Seller's surety from obligations with respect to any unpaid claims.
29. Health Care Benefits for Seller's Employees. If this order involves public service, then Seller must provide health care benefits to all employees who are performing services previously performed by public employees performing similar duties under this order.
30. Hours of Labor. If labor is performed under this order, then no person shall be employed for more than eight (8) hours in any one day, or forty (40) hours in any one week, except in cases of necessity, or emergency or where the public policy absolutely requires it, and in such cases, except cases of contracts for personal services as defined in ORS 279.050, the labor shall be paid at least time and a half for all overtime in excess of eight (8) hours a day and for all work performed on Saturday and on any legal holidays as specified in ORS 279.334. In cases of contracts for personal services as defined in ORS 279.050, any labor shall be paid at least time and a half for all hours worked in excess of forty (40) hours in any one week, except for those individuals excluded under ORS 653.010 to 653.260 or under 29 USC SS 201-209.
31. Medical Care and Workers' Compensation. Seller shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention incident to sickness or injury, to the employees of such Seller, of all sums which the Seller agrees to pay for such services and all moneys and sums which the Seller collected or deducted from the wages of the employees pursuant to any law, contractor agreement for the purpose of providing or paying for such service.

AGENDA ITEM # _____
FOR AGENDA OF October 29, 2002

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Street Maintenance Fee Public Process

PREPARED BY: A.P. Duenas DEPT HEAD OK _____ CITY MGR OK _____

ISSUE BEFORE THE COUNCIL

Informational briefing on the public process developed to increase public awareness of the proposed Street Maintenance Fee and to obtain more public input from citizens and businesses in Tigard prior to any Council action regarding implementation.

STAFF RECOMMENDATION

Informational briefing for Council. No recommendation at this point.

INFORMATION SUMMARY

At the Council Workshop meeting on September 17, 2002, City Council heard a report from the City Attorney's office regarding the various issues that a few citizens and several businesses have brought up regarding the proposed Street Maintenance Fee. At that meeting, Council extended the public process for the Street Maintenance Fee by three months. The Transportation Financing Strategies Task Force met on October 10, 2002 to develop a public process to increase citizen awareness of the proposed fee and to obtain additional public input from the citizens and businesses in Tigard.

To increase public awareness, the Task Force decided to commission a video presentation to explain why the fee is necessary and to suggest ways that citizens can become involved in the process. One significant way to become better informed on the issues and on the reasons why implementation of the fee at this time supports the community's vision of what Tigard should look like now and in the future. This video will be aired periodically during the next few months over the public access channel.

To obtain public input, a public meeting has been scheduled for November 14, 2002 to discuss the fee with citizens and businesses. This meeting will be held in Town Hall beginning at 6:30 p.m. and will be structured as an open house. Task Force members and staff will be present to receive input and answer any questions regarding the proposed fee.

Council discussion of the results of the meeting is scheduled for the Council meeting on December 17, 2002. Any action on implementation of the fee would most likely be scheduled for early 2003. If Council does approve implementation, the effective date for the fee would be set several months after Council action. This would give the City of Tigard staff sufficient time to set up the fund and do the necessary work to ensure that the amounts can be incorporated on the utility bills without a glitch in the billing process.

OTHER ALTERNATIVES CONSIDERED

None. Council direction is to extend the public process with a report to Council to be scheduled in December 2002.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Timely maintenance of the street infrastructure meets the Tigard Beyond Tomorrow goal of *Improve Traffic Safety*. The implementation of the Street Maintenance Fee meets the goal of *Identify and Develop Funding Resources*.

ATTACHMENT LIST

None.

FISCAL NOTES

None at this point. The implementation of the Street Maintenance Fee would provide funding for street maintenance, limited rights-of-way maintenance, limited sidewalk maintenance, and street light and traffic signal system energy costs and maintenance.

AGENDA ITEM # _____
FOR AGENDA OF 10/29/02

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Intergovernmental Agreement (IGA) with Washington County regarding station area design and coordination for Commuter Rail

PREPARED BY: Beth St. Amand DEPT HEAD OK _____ CITY MGR OK _____

ISSUE BEFORE THE COUNCIL

Washington County is entering into an IGA with Tigard and all affected jurisdictions (Tualatin, Beaverton and Wilsonville) to allow better coordination and station design consistency between the cities and the County.

STAFF RECOMMENDATION

That Council review the IGA and pass a resolution authorizing the Mayor to enter into the IGA with Washington County regarding the Tigard station-area design and coordination for Commuter Rail.

INFORMATION SUMMARY

Washington County and TriMet—along with Tigard, Beaverton, Tualatin, Wilsonville and other regional partners— are planning a Commuter Rail train system that would carry commuters from Wilsonville to Beaverton beginning in 2005. As part of those plans, Tigard would have two stations: Downtown and Washington Square.

The County is entering into an IGA with Tigard and all affected jurisdictions (Tualatin, Beaverton and Wilsonville) to allow better coordination and station design consistency between the cities and the County. To aid the project in receiving its full federal funding allocation, the IGA will be included as part of the Full Funding Grant Agreement paperwork.

The IGA will include general language that will accommodate the work done by the Downtown Task Force, a group of Downtown property and business owners. The Task Force has been reviewing the station-area plans and has been working closely with Washington County and TriMet to influence the Downtown station's development. The Task Force will develop a list of priority projects for the Downtown station before final engineering takes place, which will be reviewed with the County and TriMet and will shape the station's appearance. The Downtown Task Force process will not result in additional cost to the Commuter Rail project; these projects will be addressed in a separate manner (see Fiscal Notes).

OTHER ALTERNATIVES CONSIDERED

That Council not pass a resolution authorizing the Mayor to enter into the IGA with Washington County regarding the Tigard station-area design and coordination for Commuter Rail.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Community Character and Quality of Life/Central Business District Goal #1, Provide opportunities to work proactively with Tigard Central Business District Association (TCBDA) businesses and property owners and citizens of Tigard to set the course for the future of the central business district.

Transportation and Traffic Goal #3, Alternative Modes of Transportation are Available and Use is Maximized.

ATTACHMENT LIST

Attachment 1: Proposed Resolution

Exhibit A to Resolution: Urban Services Intergovernmental Agreement between the City of Tigard, the City of Tualatin, the City of Beaverton, the City of Wilsonville and Washington County, Oregon; and Exhibit A to the IGA – Draft Washington County Commuter Rail Station Design Scope

Attachment 2: Transmittal Letter from Washington County Land Use and Transportation Director Kathy Lehtola

FISCAL NOTES

The IGA will state the Commuter Rail project's fiscal responsibilities to the station areas. Exhibit A to the IGA categorizes station improvements into three levels: station elements, amenities and enhancements. The Project will be responsible for station elements and some amenities; other funding sources will be required to provide amenities and enhancements. These agreements will be documented when they occur. The Downtown Task Force will explore additional funding mechanisms for the Downtown station.

CITY OF TIGARD, OREGON

RESOLUTION NO. 02-_____

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT (IGA) WITH WASHINGTON COUNTY REGARDING THE TIGARD STATION-AREA DESIGN AND COORDINATION FOR COMMUTER RAIL.

WHEREAS, in 1996 Tigard joined with Washington County, the cities of Beaverton, Tualatin, Wilsonville and Sherwood, and the Oregon Department of Transportation to study the feasibility of commuter rail along the freight rail line running between Beaverton and Wilsonville;

WHEREAS, in 1999 Washington County and the Federal Transit Administration (FTA) began conducting an alternatives analysis and an environmental assessment;

WHEREAS, both processes have been successfully concluded and the project is now seeking federal approval to begin final design;

WHEREAS, the City of Tigard will have commuter rail stations in Downtown Tigard and in the Washington Square Regional Center;

WHEREAS, the City of Tigard has supported the commuter rail project throughout the planning process;

WHEREAS, Washington County is entering into an IGA with Tigard and all affected jurisdictions (Tualatin, Beaverton and Wilsonville) to allow better coordination and station design consistency between the cities and the County;

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: Mayor Griffith is authorized to enter into an Intergovernmental Agreement (IGA) with Washington County regarding the Tigard-station area design and coordination for Commuter Rail, attached as Exhibit A to the Resolution.

SECTION 2: This resolution is effective immediately upon passage.

PASSED: This _____ day of _____ 2002.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

\\TIG333\USR\DEPTS\LRPLN\BETH\DOWNTOWN\RESOLUTION 10 29 02 FOR IGA.DOC

URBAN SERVICES INTERGOVERNMENTAL AGREEMENT

BETWEEN

THE CITY OF TIGARD, THE CITY OF TUALATIN, THE CITY OF BEAVERTON, THE CITY OF WILSONVILLE AND WASHINGTON COUNTY, OREGON

RECITALS

1. This intergovernmental agreement, hereinafter Agreement, is entered into on the last date shown on the signature pages by City of Tigard, the City of Tualatin, the City of Beaverton and the City of Wilsonville, hereinafter "Cities," and Washington County, hereinafter "County," all political subdivisions of the State of Oregon; and
2. ORS 190.007 provides for the furthering of economy and efficiency in local government by intergovernmental cooperation.
3. The parties desire to enter into this Agreement for the purpose of allowing better coordination and design consistency between the Cities and the County in response to the design of station areas for the Washington County - Wilsonville to Beaverton Commuter Rail Project, hereinafter "Project".
4. The Project is defined in the Washington County Commuter Rail Preliminary Engineering documents prepared by URS Consultants and dated February 2002.
5. The Project includes physical improvements to be located in each of the Cities that will require local land use review and permitting. The Project will be more specifically defined during the final engineering and design phase.
6. Cities and County coordinated during the preliminary engineering and design phase of the Project to reach a consensus on the fundamental design features of the physical improvements of the Project. This consensus represents a common understanding between the Cities and County of the Project improvements to be constructed in the Cities and any potential impacts associated with the Project.
7. The parties have unanimously endorsed the Wilsonville to Beaverton Commuter Rail Project based on the anticipated benefits to the transportation system and support the final design and engineering efforts that will lead to construction of the project. The Wilsonville to Beaverton Commuter Rail Project is recognized and included in the Transportation System Plan of each City.
8. It would be to the benefit of the Cities and the County to coordinate planning and permit review for the development of the Project to insure that the Project provides similar station area improvements in each of the Cities based on a consistent set of Project design expectations.

9. It would be to the benefit of the Project to coordinate planning and permit review for the development of the Project to insure that extraordinary expenses do not result from the local review process that could impact the financial feasibility of the Project.

THE CITIES OF TUALATIN, TIGARD, BEAVERTON, WILSONVILLE, AND
WASHINGTON COUNTY AGREE AS FOLLOWS:

I. AREA AFFECTED BY THIS AGREEMENT

The area affected by this Agreement is the Project property subject to local land use review and permitting by the Cities that is generally described as the Commuter Rail station areas, including station platforms, park-and-ride lots, operating base and related facilities. This property will be further defined as a result of the final engineering and design effort for the Project.

II. PROJECT DEVELOPMENT PRINCIPLES

- a. Insofar as practical, Cities shall be treated equally in terms of type and design of station area Project improvements within each of the Cities' jurisdictional boundaries. Station area Project improvements shall be consistent with a common set of design guidelines (as shown in Exhibit A) for station areas established by the Project. Project improvements may recognize design variations included in local design guidelines or standards. However, any incremental cost attributable to physical improvements or modifications that is greater than the cost in the design guidelines (Exhibit A), or as agreed to through the process set forth in III c. will be the financial responsibility of the permitting city.
- b. A Memorandum of Understanding (MOU) between the Commuter Rail Project Manager and the city designee will be prepared outlining the details for costs, construction, roles and responsibilities for station area and any off-site improvements. This MOU will be prepared and agreed to prior to filing a formal land use application with the applicable city.
- c. Efforts shall be made through coordination between the Cities and County to protect the Project from extraordinary expenses resulting from local land use reviews and approvals that may impact the financial feasibility of the Project.

III. DEVELOPMENT PROCESS

- a. County or its designee will be the applicant for all necessary land use applications for submittal to each City. The applicant shall pay all required application fees or as otherwise agreed.
- b. Land use applications submitted to each of the Cities will reflect the Project improvements based on the common understanding of the station area Project design and impacts shown in Exhibit A and including any variations or enhancements agreed to by the City and the Project. A Pre-Application Conference will be held with the particular permitting city prior to application submittal to review the project design and formalize this common understanding of Commuter Rail facility design within each City. The Pre-Application Conference will also identify permit

requirements and an estimated schedule for review of land use applications. During the local project review process, the City in which the application is being processed will assign a staff liaison to the Commuter Rail project who will act as the primary point of contact between that City and the permit applicant.

- c. During City's review of land use applications, design issues and/or impacts that extend beyond the Station Area Project Design Guidelines shall be immediately brought to the attention of the County or its designee. County or its designee and City shall meet to evaluate the effects of the City-initiated design changes on the design and financial feasibility of the Project. If design changes can be made that are consistent with the design guidelines of Exhibit A and the Project Development Principles (Section II) of this agreement, such changes shall be incorporated into the Project design and land use application.
- d. If a determination of consistency with the Exhibit A cannot be reached, the provisions of the Dispute Resolution section (Section IV) of this Agreement shall be followed.

IV. DISPUTE RESOLUTION

In case of a dispute over the provisions of this Agreement, the one or more Cities and County staff for each entity will immediately refer the dispute to the respective City Manager or Mayor and the County Administrator for resolution. If the City Manager or Mayor and the County Administrator cannot resolve the dispute within 30 days, it shall be forwarded to the Commuter Rail Steering Committee for resolution (the Commuter Rail Steering Committee is composed of elected representatives from the four cities, Washington County and the Tri-Met General Manager). If the Commuter Rail Steering Committee is unable to resolve the dispute within 30 days, the dispute shall be subject to binding arbitration under ORS 190.710-190.800 except that the parties can each select an arbitrator and those arbitrators shall select a third arbitrator. The third arbitrator shall hear the matter. Any decision resulting from this dispute resolution process shall not be a land use decision but may be incorporated into a final land-use decision by the City. The cost of the arbitrator shall be borne equally by the parties to the dispute. Each party shall be solely responsible for its cost of legal representation, if any.

V. NOTICE OF APPLICATIONS

Cities shall give notice to County or its designee of all claims, land use applications, hearings, decisions and any appeals of those decisions made under the authority of this Agreement. County or its designee shall forward to other signatories to this agreement copies of all claims, land use applications, hearings, decisions and any appeals of those decisions made under authority of this Agreement.

VI. TERM OF AGREEMENT

This Agreement shall be effective upon final signature and shall remain in effect for three (3) years. The Agreement may be extended for a subsequent two (2) year term upon mutual agreement of the parties. This Agreement may be terminated by any party upon ninety (90) days written notice to the other parties.

VII. COMPLIANCE WITH LAWS

Each party shall comply with all applicable federal, state and local ordinances, statutes, and regulations that are applicable to the services provided under this Agreement.

VIII. DEBT LIMITATION

This Agreement is expressly subject to the debt limitation of Oregon Counties as set forth in Article XI, Section 10 of the Oregon Constitution and is contingent upon funds being appropriated therefor.

IX. HOLD HARMLESS

Subject to the limitations of liability for public bodies set forth in the Oregon Tort Claims Act, ORS 30.260 to 30.300, and the Oregon Constitution, each party agrees to hold harmless, defend, and indemnify each other, including its officers, agents and employees, against all claims, demands, actions and suits (including all attorney fees and costs) arising from the indemnitor's performance of this Agreement where the loss or claim is attributable to the negligent acts or omissions of that party.

X. ASSIGNMENT

Each of the parties understand that the County shall have the right to assign this Agreement without the Cities consent to an entity that designs, constructs, and/or operates passenger rail service in this corridor.

XI. MODIFICATION

Modifications to this Agreement are valid only if made in writing and signed by all parties. This writing is intended as the final expression of the agreement between the parties with respect to the terms and as a complete and exclusive statement of the terms of the Agreement.

In WITNESS THEREOF, the parties have executed this Intergovernmental Agreement on the date set below their signatures.

WASHINGTON COUNTY, OREGON

By: _____
Tom Brian, Chair
Washington County
Board of Commissioners

Date: _____

Approved as to form:

County Counsel

CITY OF TIGARD, OREGON

By: _____
Jim Griffith, Mayor
City of Tigard

Date: _____

Approved as to form:

City Attorney



DRAFT

***Exhibit A
to Commuter Rail
Intergovernmental Agreement***



***Washington County
Commuter Rail
Station Design Scope***



September 2002



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Project Summary



Trinity Railway Express
Dallas/Ft. Worth, Texas



Washington County commuter rail corridor

Project Description

The Commuter Rail project will serve critical public mobility needs in the eastern Washington County transit corridor through joint use of freight rail lines to move commuters through this fast growing area.

The Commuter Rail project:

- links with the MAX Blue Line to connect riders with Hillsboro, Portland, Gresham and the Portland Airport
- runs 14.7 miles from Wilsonville to Beaverton along an existing railroad corridor
- links five eastern Washington County regional and town centers
- includes park & ride facilities at four of the five stations at Washington Square, Tigard, Tualatin and Wilsonville
- will operate weekdays during rush hours
- has an estimated daily ridership of 4,650 in 2020

Project Cost

Total capital cost for the Commuter Rail project is estimated at \$120 million (year-of-expenditure dollars). Federal, state and local funding will cover construction costs. Local cities and Washington County have committed \$25 million in local funds. The 2001 Legislature committed \$35 million in state lottery bond proceeds for the project. A request for federal authorization and funding for the balance is underway.

Background and Project Status

In 1996, Washington County; the cities of Beaverton, Tigard, Tualatin, Wilsonville and Sherwood; TriMet; Metro; and ODOT began studying the feasibility of commuter rail along a branch freight rail line that parallels Interstate 5 and Highway 217 between Wilsonville and Beaverton. In 1999, the county and the Federal Transit Administration (FTA) began alternatives analysis and an environmental assessment. Both processes have been successfully concluded, and the project is now seeking federal approval to begin final design.

Benefits

- Of the 4,650 average daily weekday riders (in 2020), 2,350 would be new to transit.
- Commuter rail travel time of 26 minutes between Beaverton and Wilsonville is 35-50 percent less than equivalent auto travel.
- Capital cost of \$8.2 million per mile is significantly less than an alternative limited-access highway.
- Project is consistent with local, regional and state plans.

Project Scope



Rail Diesel Car (RDC)



RDC Interior-Trinity Railway Express
Dallas/Ft. Worth, Texas



Aero DMU-Colorado Rail Car



M-7 commuter rail vehicle-Long Island Railroad
Bombardier Transportation

Commuter Rail Service

In most settings, commuter rail is a transit service that predominantly serves work commute trips over longer distances than light rail (e.g., MAX). Trains typically run during both the morning and afternoon rush hours; some commuter rail agencies also offer mid-day trains. Commuter rail stations are typically further apart than light rail stations; station spacing on the Washington County line ranges from 3-5 miles.

Washington County and TriMet are planning for weekday commuter rail service for 3.5 hours in both the mornings and afternoons.

Commuter Rail Vehicles

Most new commuter rail systems in North America use diesel-electric-powered locomotives hauling 3-6 passenger coaches in order to carry many passengers over long distances. For commuter corridors with shorter distances between stations and smaller passenger loads, self-propelled train cars like the Rail Diesel Car (RDC), used by the Trinity Railway Express in Dallas/Ft. Worth, are more economical.

Since the Washington County commuter trains will be operating on an active freight railroad, the passenger vehicles must comply with safety standards set by the Federal Railroad Administration (FRA). No FRA-compliant vehicles have been manufactured since the 1950s. Recently a new car developed by Colorado Rail Car has met the FRA standards and remains in development. Another possible self-propelled rail car is being developed by Bombardier Transportation.

Commuter Rail Facilities

Commuter rail station facilities across North America vary widely in size and amenity levels. Some stations have operated continuously as central railroad stations for decades. Other stations, in part because of the limited peak-hours service, are fairly utilitarian.

Introduction



MAX Red Line-Portland Airport



Station platform-MARC commuter rail
Dorsey, Maryland

Purpose

This document will provide project partners a means of establishing the objectives and expectations of station design for the Washington County Commuter Rail Project.

This document will help:

- outline the objectives of station design for the project
- present background information and design examples from other projects in the region and other commuter rail systems
- clarify station design options and station elements within the project's baseline budget
- outline opportunities for TriMet's public art program to help station communities strengthen their identity using standard and unique project materials
- introduce possible enhancements that, while beyond the scope of the project, may be funded locally by station communities

This document also serves as Exhibit A to the Intergovernmental Agreement (IGA) that the project partners have implemented to describe the physical improvements within each jurisdiction and to provide the basis for a common set of design guidelines to be followed during Project construction.

These design guidelines, when used in conjunction with the preliminary engineering documents, ensure that the Project will provide similar improvements in each of the Cities based on a consistent set of Project design expectations. The IGA also notes that physical improvements or modifications beyond those set forth in these design guidelines or agreed to design variations will be the financially responsibility of the sponsoring city or agency.

Design Objectives



Station platform-Trinity Railway Express
Dallas/Ft. Worth, Texas



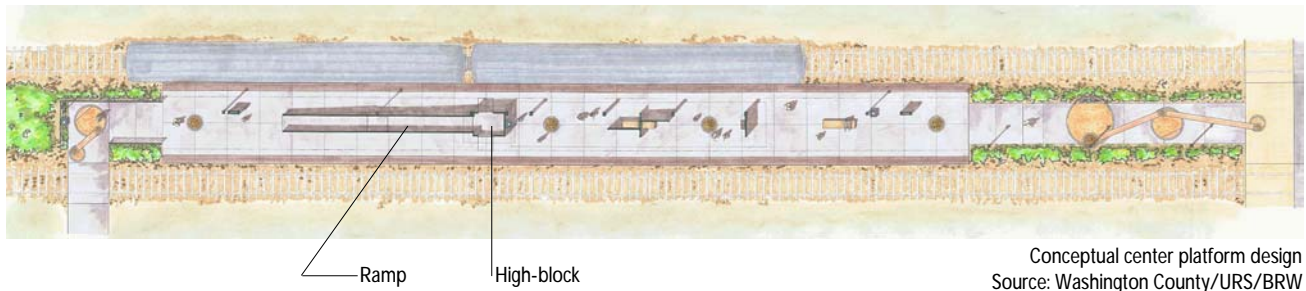
Station platform and adjacent buses-Metrolink
Southern California

TriMet builds both bus and rail facilities based on objectives that have evolved over the years.

In building capital facilities, TriMet seeks to:

- optimize passenger safety and security
- provide protection from the elements for waiting passengers
- optimize system reliability and customer comfort
- enhance the physical place and community in which the facility resides
- minimize disruption to local facilities and communities
- minimize energy consumption
- ease and facilitate maintenance and reduce costs over time
- provide attractive physical improvements within the project's overall capital budget

Station Element: Platforms



Station platforms provide waiting and loading areas for commuter rail passengers. Platforms must be designed to accommodate pedestrian circulation, ADA requirements, standard transit amenities and the commuter rail vehicle dimensions and clearances. Platform dimensions are typically 20 feet wide by 200 feet long.

Commuter rail platforms will include:

- a "mini-high-block" platform for loading passengers in wheelchairs
- benches
- trash cans
- ticket machines
- shelters



Station Element: Platforms

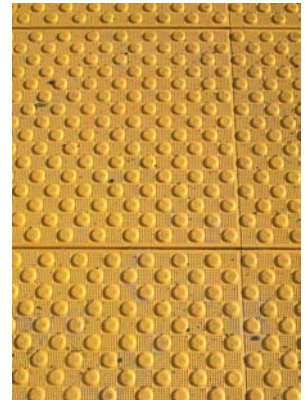


Station platforms must be designed with passenger safety foremost in mind.

Safety features include:

- tactile pavers to delineate the trackway edge
- well-marked and regulated pedestrian track crossings

Tactile Pavers



Platform tactile pavers being installed
MAX Yellow Line-Portland Blvd. Station

Track Crossings



Station Element: Shelters



Partially completed shelter
N Portland Blvd Station
MAX Yellow Line (Interstate MAX)



New shelter under construction
N Portland Blvd Station
MAX Yellow Line (Interstate MAX)

Passenger shelters should provide weather protection, a feeling of security and an identity for the station and surrounding area.

Commuter rail shelters will include:

- a metal roof
- steel support columns
- a stainless steel leaning rail

Shelters are planned to be approximately 10 feet wide by 60 feet in length; the roof will be approximately 10 feet above the platform.

Conceptual platform design showing shelter/windscreen
Source: Washington County/URS/BRW



Station Elements



Pedestrian-scale lighting
Precast concrete pole



Overhead cobra-style lighting
Metal pole



Customer information pylon



Customer information sign



TriMet ticket vending machines

Lights

Commuter rail stations and park & ride lots will include both pedestrian level and higher level lighting. Pedestrian level lighting is provided via 10-foot high precast concrete poles and translucent fixtures. Depending on the situation, higher level lighting will be provided by lights that are typical for either TriMet or the local jurisdiction.

Minimum illumination standards must be met for pedestrian walkways, platforms and parking lots.

Signs

Station signs provide clear and concise information to passengers.

Signs will:

- be easily visible
- be consistent with existing TriMet graphics
- conform to ADA and other applicable codes
- minimize maintenance requirements

Ticket Machines

Ticket vending machines (TVMs) allow self-service purchase and validation of single and multiple ride tickets.

Ticket machines on commuter rail platforms will be standard TriMet equipment.

Station Amenities

Paving

Various paving treatments can enhance the station environment. Paving materials must meet basic safety requirements.

These examples illustrate the paving materials and designs that are considered appropriate for the commuter rail stations.



Scored concrete, Rose Quarter TC



Sand-based pavers



Ramp railing



Sand-based pavers

Railings

Railings provide separation from non-pedestrian areas and fall protection. Railings may be utilitarian in design or may be enhanced as part of the art program or other efforts.



Ramp railing



Platform railing

Station Amenities

Phones



These station amenities are considered appropriate for all commuter rail stations.

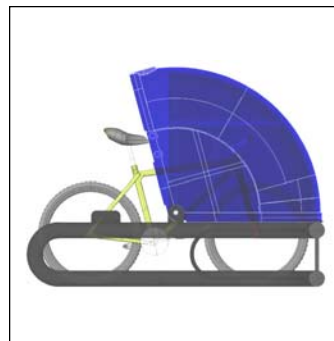
Benches



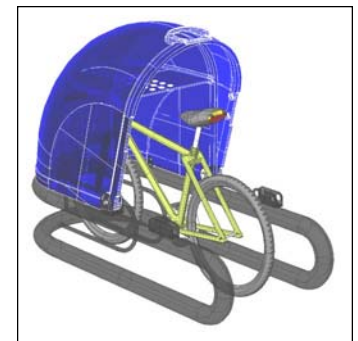
Trash Receptacles



Bike Racks/Lockers



TriMet's new prototype bike locker



Tree Grates



Public Art

Art Program Objectives

A great opportunity for making each station unique is through public art. TriMet's public art program promotes transit use and community pride by integrating permanent art works into the public transit system. The resulting art work celebrates the contributions of public transportation and reflects the cultural richness in the region.

The TriMet public art program:

- utilizes local, regional and national artists to develop high quality public art work that enhances the transit environment
- commissions artwork that is structurally sound and resistant to theft, vandalism, weathering and excessive maintenance costs
- commissions artwork that presents no public safety hazards nor creates any impediment to Americans with Disabilities Act (ADA) compliance

Community Involvement

TriMet will form a new group including representatives from each station area and TriMet's Public Art Advisory Committee to select artists and review proposed art work.

Representatives of community-based organizations, neighborhood associations and other groups will be invited to share their knowledge about the community with the artists. The artists' proposals for art work will reflect their understanding of the history and unique character of the areas around the commuter rail stations.

Through frequent exchanges and the direct involvement of community members, the Commuter Rail art program will be better able to achieve its goals of enhancing the transit system and the communities it serves.



Sand-blasted glass panels
MAX Blue Line-Quatama/NW 205th Ave Station



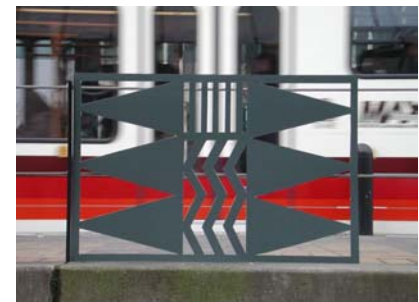
Color integrated into concrete platform
MAX Red Line-Portland Airport Station



Installation of railing with art elements
MAX Yellow Line-Interstate/Rose Quarter Station



Art installation: 'Coho Commute'
Mohawk Park & Ride/Tualatin



Prototype railing for N Killingsworth St Station
MAX Yellow Line (Interstate MAX)

Station Enhancements

Communities may consider adding amenities, with local funding, that are beyond the basic design of the commuter rail stations in order to achieve local design objectives.

The Project will strive to incorporate station enhancements wherever financially feasible.

Information Kiosks



Clocks/Towers



Station clock
Dallas Area Rapid Transit station

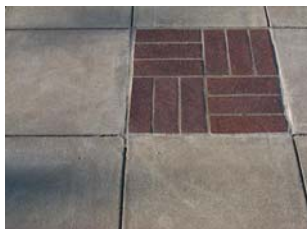


Papé Bell Tower
Oregon State University

Special Paving



Sand-based pavers



Brick and precast concrete pavers



Brick and precast concrete pavers



Pavers



Art elements cast into concrete

Flower Baskets/Planters



MAX Blue Line-Old Town/Chinatown Station



MAX Blue Line-Old Town/Chinatown Station

Special Railings



Commuter Rail Station Plans

The station plans, when considered together with the preliminary engineering documents, form the common set of design elements that will be provided at each of the five commuter rail stations.

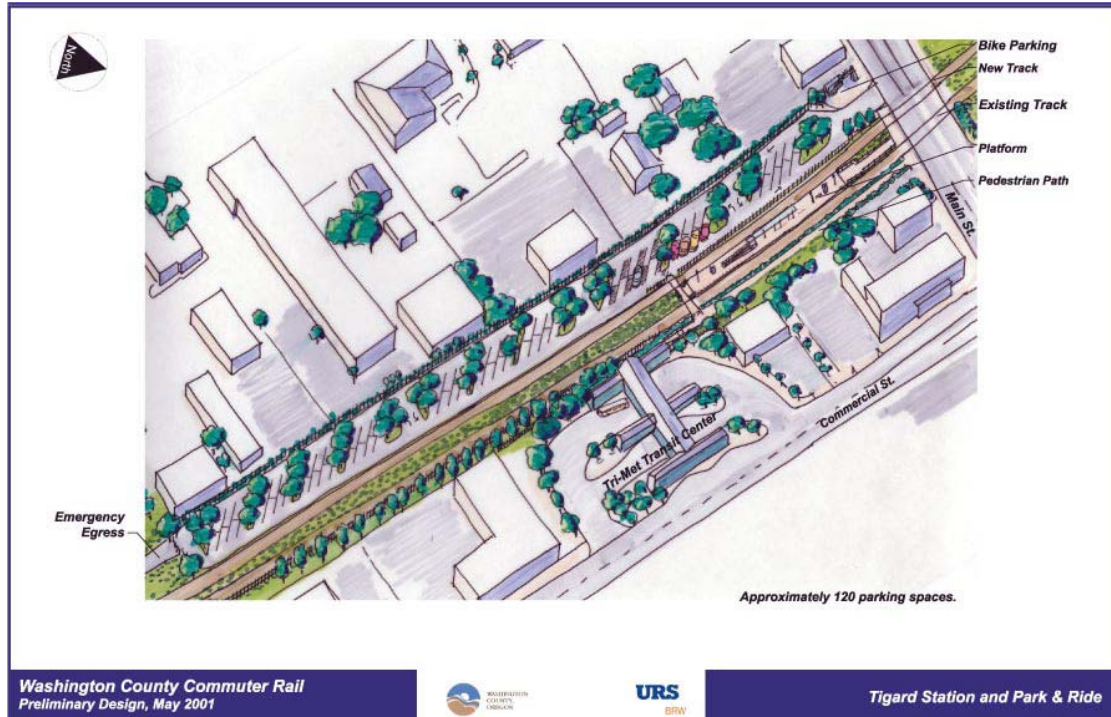
These commuter rail station plans will likely be refined as more detailed engineering occurs on the project. However, design details will be consistent with the provisions of the Intergovernmental Agreement.

Beaverton Transit Center



Commuter Rail Station Plans

Tigard Transit Center



Scholls Ferry Rd./Washington Square



Commuter Rail Station Plans

Tualatin



Wilsonville





WASHINGTON COUNTY OREGON

October 7, 2002

Tigard City Council
13125 SW Hall Boulevard
Tigard, Oregon 97223

RE: Commuter Rail Intergovernmental Agreement (IGA)

Dear Council Members:

The Wilsonville to Beaverton Commuter Rail Project is moving forward into the final design stage. Over the next year, the project will be fully designed and steps will be taken to secure the required approvals and funding agreements for construction of the Commuter Rail Project. We anticipate project construction activity could begin as early as next summer. Our target completion and opening date is September 2005.

As the project progresses through the final design stage, local engineering and land use reviews will be required in each City the Commuter Rail project serves. These reviews will be associated with the Commuter Rail station areas and park-and-ride lots. In an effort to ensure that each City is treated equally in the design and implementation of the Commuter Rail project, an Intergovernmental Agreement (IGA) has been prepared to set forth the design parameters for the stations and park-and-ride lots. The IGA is intended to establish the standard facility design that the Commuter Rail project will construct in each City within the project budget. The IGA does allow modifications to the design to recognize local design guidelines such as the Central Tualatin Design Guidelines or the results of the Tigard Downtown Design effort that is currently underway. However, the IGA includes the requirement that a local jurisdiction pay any incremental cost attributable to physical modifications that is greater than the cost of the improvements in the design guidelines presented in Exhibit A of the IGA. Any design modification will be the result of discussions and coordination between a City and the Commuter Rail project team prior to submitting the project for local review.

We appreciate your consideration of the attached Intergovernmental Agreement and Design Guidelines. Our objective is to have the Commuter Rail project treat each City equally in terms of improvements and to protect the project from unanticipated project costs. A representative from the Commuter Rail project team will be at your Council meeting when you consider the IGA and will be available for questions.

Thank you,

Kathy Lehtola
Director

C: TriMet
Frank Angelo, Angelo Eaton and Assoc.
Geoff Larkin, Larkin Group, Inc.

AGENDA ITEM # _____
FOR AGENDA OF October 29, 2002

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Greenburg Road Project Agreement

PREPARED BY: A.P. Duenas DEPT HEAD OK _____ CITY MGR OK _____

ISSUE BEFORE THE COUNCIL

Shall City Council approve the project agreement with the Oregon Department of Transportation (ODOT) to provide the funding for the design and rights-of-way acquisition on the widening of Greenburg Road from Washington Square Drive to Tiedeman Avenue?

STAFF RECOMMENDATION

Staff recommends that Council approve the project agreement and authorize the City Manager to sign the agreement upon receipt from ODOT.

INFORMATION SUMMARY

The widening of Greenburg Road from Washington Square Drive to Tiedeman Avenue was approved for federal funding through the Metro Metropolitan Transportation Improvement Program (MTIP) process. The funding approval is for project design and land acquisition only. This project is included in the approved FY 2002-03 Capital Improvement Program. The federal funding is provided through the Priorities 2000 & 2002 MTIP funds in the amount of \$660,000 with Tigard providing matching funds of \$85,000. The bulk of the work will be to widen Greenburg Road between the Highway 217 overcrossing and Tiedeman Avenue to a 5-lane facility with bike lanes and sidewalks on both sides. Because the project includes some minor work along the overcrossing and on the segment north to Washington Square Drive, Washington County needs to be part of the project agreement for the project. The completed improvements would enhance movement into and out of the Washington Square Regional Center.

The federal funding will be managed through ODOT and a project agreement has to be executed with ODOT to begin the project. ODOT has transmitted originals of the project agreement to Washington County for signature and will transmit the signed originals to the City after receipt from the County. Approval by City Council at this time would allow the City Manager to sign the agreements upon receipt from ODOT.

OTHER ALTERNATIVES CONSIDERED

None.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

The widening of Greenburg Road meets the Tigard Beyond Tomorrow goals of *Improve Traffic Flow* and *Improve Traffic Safety*, Strategy *Encourage through traffic on major collectors and arterials*.

ATTACHMENT LIST

None.

FISCAL NOTES

The project is authorized in the FY 2002-03 Capital Improvement Program and is funded through MTIP funds in the amount of \$660,000 with local matching funds of \$85,000 taken from the Traffic Impact Fee Fund.

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Resolution to Adopt Housing Set-Aside Guidelines

PREPARED BY: Duane Roberts DEPT HEAD OK _____ CITY MGR OK _____

ISSUE BEFORE THE COUNCIL

Should Council adopt guidelines for the award of affordable housing set-aside funds?

STAFF RECOMMENDATION

Adopt the guidelines (Attachment 1, Exhibit "A").

INFORMATION SUMMARY

The new City Affordable Housing Program, adopted by Council on 9/24/02, included a range of land use and non-land use affordable housing promotion measures. One of the land use measures was a budget set-aside designed to offset fees and charges imposed on affordable housing development. At its 10/15/02 meeting, Council reached agreement on a set of ten guidelines that define the requirements and conditions for entities wishing to apply for the set-aside funds.

Washington Council Housing Services and Community Partners for Affordable Housing, each of which own and manage affordable housing within the City, have reviewed and expressed support for the guidelines proposed by Council.

OTHER ALTERNATIVES CONSIDERED

None considered.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Growth and Growth Management, Goal #3: Partnerships for advocacy for development of additional units and preservation of affordable housing are encouraged and supported by the City and the community.

ATTACHMENT LIST

Attachment # 1: Proposed resolution
Exhibit A: Affordable Housing Set-Aside Guidelines

FISCAL NOTES

The adopted 02/03 budget includes a \$10,000 affordable housing set-aside within the Events and Social Services Fund.

CITY OF TIGARD, OREGON

RESOLUTION NO. 02-_____

A RESOLUTION ADOPTING GUIDELINES FOR THE AWARD OF CITY AFFORDABLE HOUSING SET-ASIDE FUNDS

WHEREAS, on September 24, 2002, Council adopted the City Affordable Housing Program; and

WHEREAS, this program includes a range of strategies to encourage affordable housing within the community; and

WHEREAS, one of these strategies is to use a portion of the Social Services and Community Events Fund to reduce fees and charges imposed on affordable housing development; and

WHEREAS, the budget set-aside will create an important new incentive to encourage the construction and/or rehabilitation of affordable housing units within the community; and

WHEREAS, the adopted 02-03 City budget earmarks a first-year amount of \$10,000 in the Social Services and Community Events Fund to be used for affordable housing fee reduction; and

WHEREAS, in a 10/15/02 workshop meeting, Council reviewed and recommended guidelines for allocating the set-aside funds; and

WHEREAS, affordable housing providers have reviewed and expressed support for the ten set-aside guidelines as agreed-upon by Council.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The City of Tigard Council does hereby find and declare that the attached list of guidelines, Exhibit "A", establishes the minimum eligibility requirements and conditions for for-profit and not-for-profit entities wishing to request City funds in order to reduce fees and charges imposed on affordable housing development within the City of Tigard.

EFFECTIVE DATE: This resolution is effective immediately upon passage.

PASSED: This _____ day of _____, 2002.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

Exhibit "A"

Affordable Housing Set-Aside Guidelines

1. Both for- and not-for-profit entities are eligible to apply for affordable housing set-aside funds.
2. Eligible activities include affordable housing development and rehabilitation. Affordable housing development will receive greater consideration than rehabilitation.
3. The proposed project must be consistent with City housing policies and applicable planning and zoning standards.
4. Only units targeted to households earning at or below 50% of median income are eligible for City funds. Units targeted to households earning 60% of median income are eligible when the project includes an equal number of units serving households at or below 50% of median.
5. The organization guarantees that the housing produced or rehabilitated will maintain long-term affordability, with long-term defined as the longer of 25 years, or, if applicable, the life of any State or Federal loan used to finance the project.
6. The organization guarantees that the project will be enrolled in the City Enhanced Safety Program (ESP) and maintain ESP certification for the respective (a.) period of long-term affordability defined in guideline #5, or (b.) the life of the ESP program.
7. Council review and approval of each separate award will be required. This review will include an in-person presentation to Council by a representative of the organization making the request.
8. The time limit on the use of the funds is two years.
9. Applications for assistance will be accepted twice per year. Applications shall be submitted on forms provided by the City of Tigard.
10. The maximum amount available is \$500 per qualified unit, up to the current set-aside line item balance.